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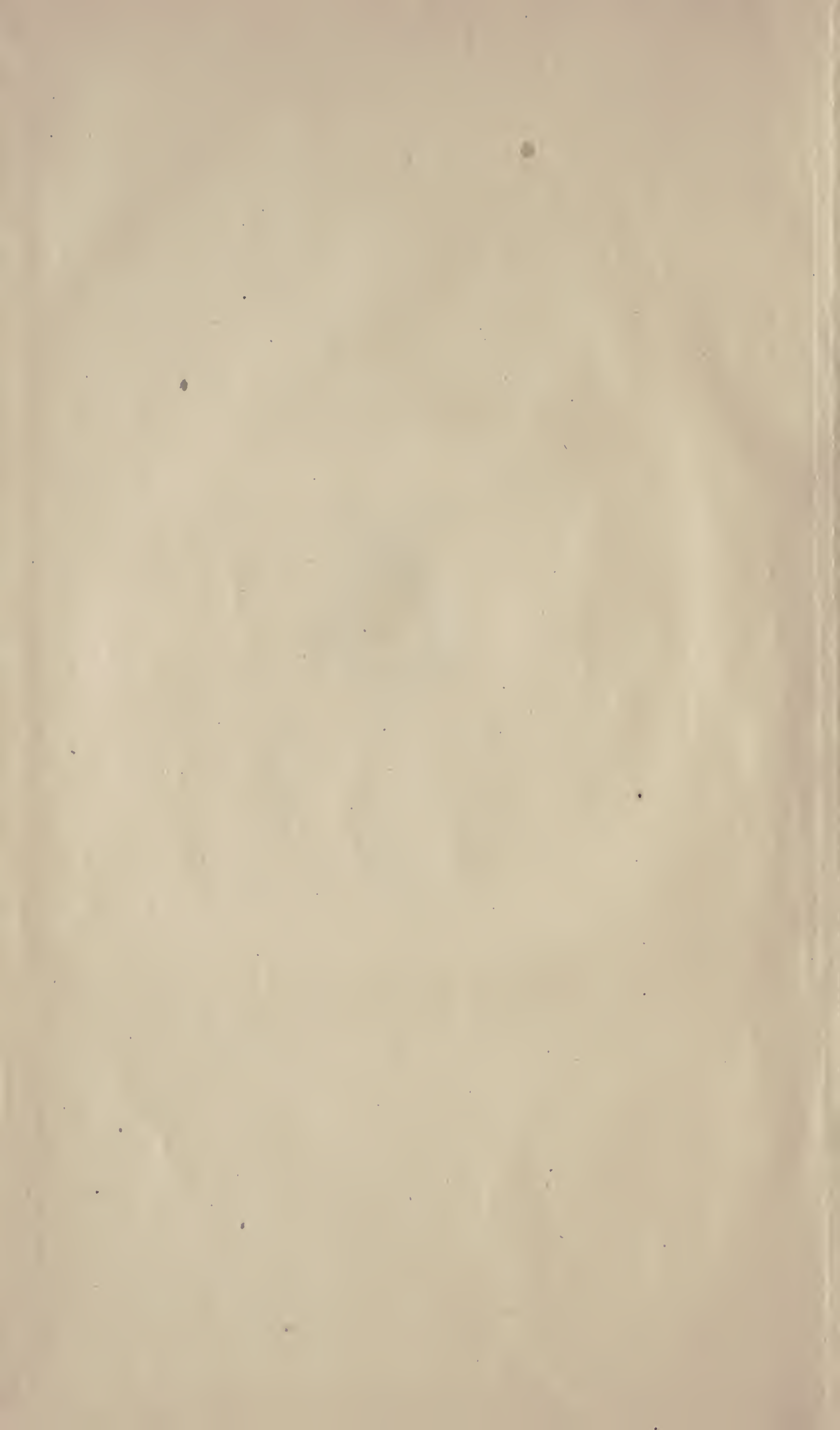
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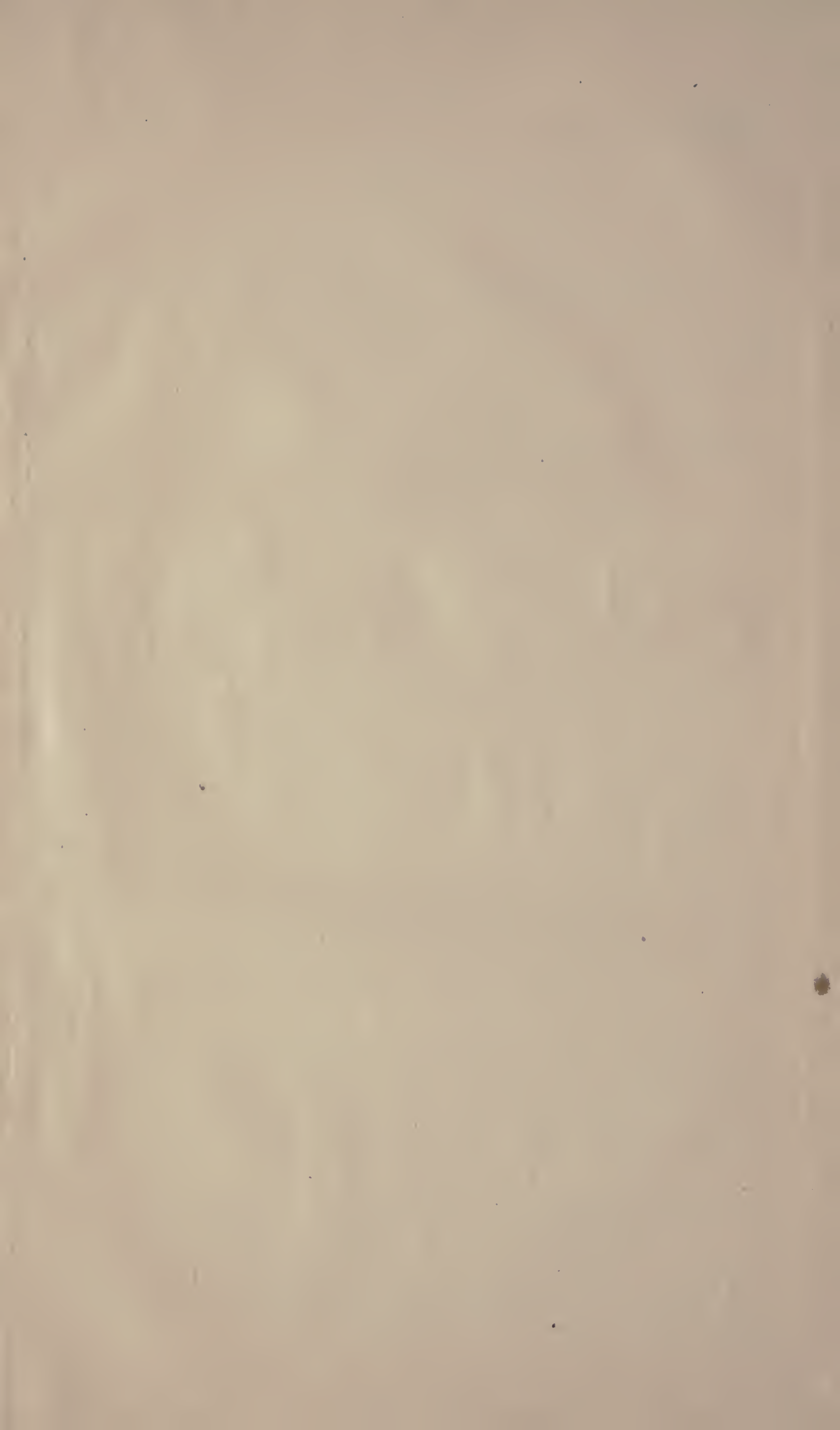
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CHARGES RELATIVE TO ELECTION OF ISAAC
STEPHENSON.

FEBRUARY 12, 1912.—Ordered to be printed.

Mr. HEYBURN, from the Committee on Privileges and Elections,
submitted the following

REPORT.

[To accompany S. Res. 136.]

The Committee on Privileges and Elections, to whom was referred certain charges preferred by the Legislature of the State of Wisconsin against Isaac Stephenson, a Senator of the United States from the State of Wisconsin, with instructions to report to the Senate whether in the election of said Isaac Stephenson as a Senator of the United States from the State of Wisconsin there were used or employed corrupt methods or practices, have had the same under consideration and submit the following report:

On August 15, 1911, the Senate adopted the following resolution:

Resolved, That the Senate Committee on Privileges and Elections or any subcommittee thereof be authorized and directed to investigate certain charges preferred by the Legislature of Wisconsin against Isaac Stephenson, a Senator of the United States from the State of Wisconsin, and report to the Senate whether in the election of said Isaac Stephenson, as a Senator of the United States from the said State of Wisconsin there were used or employed corrupt methods or practices; that said committee or subcommittee be authorized to sit during the recess of the Senate, to hold its session at such place or places as it shall deem most convenient for the purposes of the investigation, to employ stenographers, to send for persons and papers, and to administer oaths; and that the expenses of the inquiry shall be paid from the contingent fund of the Senate, upon vouchers to be approved by the chairman of the committee or chairman of the subcommittee.

Pursuant to the authority given by said resolution the Committee on Privileges and Elections appointed a subcommittee consisting of Mr. Heyburn, chairman, Mr. Sutherland, Mr. Bradley, Mr. Paynter, and Mr. Pomerene, with full powers to investigate said charges.

On January 20, 1912, the subcommittee reported to the full committee as follows:

IN THE MATTER OF THE INVESTIGATION OF THE CHARGES AGAINST ISAAC STEPHENSON, A SENATOR OF THE UNITED STATES FROM THE STATE OF WISCONSIN.

To the honorable the Committee on Privileges and Elections of the United States Senate:

Your subcommittee proceeded pursuant to the terms of its appointment to investigate the above-mentioned charges, and in pursuance of said duty met in

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the city of Washington and, having organized, proceeded to adopt a plan for holding such investigation.

It was agreed by your subcommittee that the investigation should commence on October 2, 1911, at the city of Milwaukee, in the State of Wisconsin.

Accordingly your subcommittee met at the city of Milwaukee on the above-mentioned date, all parties in interest being present. Hon. Charles E. Littlefield, W. E. Black, and H. A. J. Upham, Esqs., appeared as counsel for Senator Stephenson.

The governor and the attorney general of the State of Wisconsin were notified by the chairman of your subcommittee of the time and place of the hearing and were invited to indicate to the committee whether or not they desired to be present and participate in any manner in such investigation. The governor of Wisconsin, speaking for the State, informed your subcommittee that no one on behalf of the State would appear at such investigation.

Your subcommittee then proceeded to the examination of witnesses and documents, which examination occupied 25 days, during which time 124 witnesses were sworn, 35 affidavits received, and 2,100 pages of printed testimony taken, which testimony, affidavits, and exhibits are herewith submitted as a part of the report of your subcommittee.

Your subcommittee has given the fullest consideration to all the testimony introduced and has considered its weight and effect under the rules pertaining to the investigation and is of the opinion that the charges preferred against Senator Isaac Stephenson have not been sustained, and your subcommittee finds that the election of said Isaac Stephenson as a Senator of the United States from the State of Wisconsin was not procured by corrupt methods or practices in said election of Isaac Stephenson.

W. B. HEYBURN, *Chairman*.
GEORGE SUTHERLAND.
W. O. BRADLEY.
ATLEE POMERENE.

Mr. Heyburn, chairman of the subcommittee, submitted a statement of his views in support of the conclusions reached, and on the request of members of the committee further consideration of the matter was postponed to February 3, 1912, on which date a further postponement was had to February 10, 1912, with the understanding that any member of the committee might file a statement of his views to accompany the final report of the committee, and that a vote might be taken on that date.

On February 10, 1912, the Committee on Privileges and Elections met in regular session and received a statement of the views of Mr. Pomerene and Mr. Sutherland in support of the report of the subcommittee, and proceeded to the consideration of the report of the subcommittee together with the views expressed by the members thereof upon a full record of the testimony and proceedings in the case.

On motion it was ordered that the report of the subcommittee be adopted and that said subcommittee be discharged.

Whereupon it was ordered that Mr. Heyburn be instructed to report the action of the committee to the Senate, together with a transcript of testimony and of all the proceedings of the subcommittee, including the address of Hon. Charles E. Littlefield before the whole committee, and also the individual views presented by members of the committee. Leave was given to file a minority report by those dissenting from the conclusions reached.

Wherefore your committee, having given full consideration to the law and to the testimony and to all of the facts and circumstances brought to its notice, does find that the charges preferred against Isaac Stephenson, a Senator of the United States from the State of

Wisconsin, are not sustained, and your committee further finds that the election of said Isaac Stephenson as a Senator of the United States was not procured by corrupt methods or practices.

WM. P. DILLINGHAM.
ROBERT J. GAMBLE.
W. B. HEYBURN.
GEO. SUTHERLAND.
GEORGE T. OLIVER.
JOS. F. JOHNSTON.
DUNCAN U. FLETCHER.
ATLEE POMERENE.
W. O. BRADLEY.

VIEWS OF MR. HEYBURN IN SUPPORT OF THE REPORT OF THE COMMITTEE.

The subcommittee having reported to the whole committee in favor of Isaac Stephenson, I desire to submit herewith the reasons which actuated me in arriving at that conclusion:

JURISDICTION.

On August 15, 1911, the United States Senate adopted the following resolution:

Resolved, That the Senate Committee on Privileges and Elections or any subcommittee thereof be authorized and directed to investigate certain charges preferred by the Legislature of Wisconsin against Isaac Stephenson, a Senator of the United States from the State of Wisconsin, and report to the Senate whether in the election of said Isaac Stephenson, as a Senator of the United States from the said State of Wisconsin there were used or employed corrupt methods or practices; that said committee or subcommittee be authorized to sit during the recess of the Senate, to hold its session at such place or places as it shall deem most convenient for the purposes of the investigation, to employ stenographers, to send for persons and papers, and to administer oaths; and that the expenses of the inquiry shall be paid from the contingent fund of the Senate, upon vouchers to be approved by the chairman of the committee or chairman of the subcommittee.

Pursuant to the authority given by said resolution the Committee on Privileges and Elections appointed a subcommittee consisting of Senators Heyburn, Sutherland, Bradley, Paynter, and Pomerene, with full powers "to investigate said charges preferred by the Legislature of Wisconsin relating to the election of Isaac Stephenson, a Senator from the State of Wisconsin."

MEETING OF SUBCOMMITTEE.

In performance of said duty the subcommittee met at Milwaukee, Wis., on October 2, 1911, in the Federal Building, a quorum of said subcommittee being present.

The chairman announced that the subcommittee would recognize a duly authorized representative of the State of Wisconsin, in view of the fact that the State had submitted through its governor to the Senate of the United States the charges to be investigated. No one

appearing, the chairman then instructed the secretary of the subcommittee to communicate with the governor and attorney general of the State and advise them that the committee was in session in Milwaukee for the purpose of investigating the charges aforesaid, and to inquire whether or not the State desired to be represented at the hearing, and, pursuant to such instruction, the secretary sent the following communication to the governor:

MILWAUKEE, Wis., October 2, 1911.

Hon. FRANCIS E. MCGOVERN,
Governor of Wisconsin, Madison, Wis.:

A subcommittee of the Committee on Privileges and Elections of the United States Senate, duly appointed, with instructions to investigate the election of Isaac Stephenson as a Senator of the United States from the State of Wisconsin, as recommended by the Legislature of Wisconsin as provided in joint resolution 58 of said legislature, has entered upon the investigation in the Federal Building, in the city of Milwaukee. As the State appears to be unrepresented by counsel, you are requested to advise the committee whether or not it is the desire of the State to be represented by counsel before this committee, and if so, designate in writing such person to represent the State.

W. B. HEYBURN, *Chairman.*

To which communication the governor replied as follows:

EXECUTIVE CHAMBER,
Madison, Wis., October 3, 1911.

Hon. W. B. HEYBURN,
*Chairman Subcommittee of the United States Senate
Committee on Privileges and Elections, Milwaukee, Wis.*

MY DEAR SIR: In reply to your telegram of yesterday, in which you request me to advise your committee "whether or not it is the desire of the State to be represented by counsel" before your subcommittee, permit me to say that I find there is very serious doubt that I have any power to act in the matter. Joint resolution 58, to which you refer, confers no such authority. It simply requests the United States Senate "to investigate the manner, means, and methods by and through which Isaac Stephenson secured his election to the United States Senate," recommends to the district attorney of Dane County that prosecutions be commenced against all persons shown to have committed perjury in the senatorial inquiry in this city, and suggests that prosecutions be commenced in other counties of the State for such violations of the corrupt-practices or bribery statutes as the evidence may justify.

In the absence of any specific authority conferred by this joint resolution the only other possible source is chapter 268 of the laws of Wisconsin for the year 1911. Careful consideration of this statute leaves me in doubt as to whether it confers power upon me to employ at the expense of the State counsel to attend the investigation your subcommittee is now conducting. Nor can I see that much good is likely to come from such employment. Your invitation comes so late as practically to preclude the possibility of anyone whom I might select rendering any real service to your committee or materially assisting in the investigation now in progress. That investigation has already begun. The transactions to be inquired into are numerous and involved, as appears from the fact that the testimony already taken occupied many months of the time of committees of the State legislature and now fills a number of large volumes of printed reports. To be of service counsel for the State should have been employed months ago. I say this with no feeling of personal responsibility in the matter for the reason that until your telegram came yesterday there was no ground for anticipating that the appearance of an attorney for the State at this hearing would be acceptable to your committee. Indeed, more than a week ago, under date of September 25, the Associated Press quoted you as having expressed yourself as chairman of the subcommittee as follows: "The State of Wisconsin will not have an attorney in the investigation of the election of Isaac Stephenson by the United States Senate committee. This hearing is under the jurisdiction of the United States Senate, which does not recognize the State as a party to the investigation. This is an investigation, not a trial."

An additional reason why I should not avail myself of your invitation at this time is furnished by the practice of other committees charged with duties similar to yours. So far as I know no State has been represented by counsel at any of these investigations. The work has been done either by the members of the committee alone or by counsel of their own choosing. At any rate, the responsibility for a thorough, searching inquiry is upon your subcommittee acting as the agent of the United States Senate

in determining a question relative to the "election, returns, and qualifications" of one of its own Members. Neither the State of Wisconsin nor its legislature desires to assume the rôle of prosecutor or to sustain any other relation to this investigation than that of petitioner for a thorough, fearless, and impartial inquiry.

For the present, therefore, I shall take no action concerning the matter mentioned in your telegram. Assuring you, however, of my appreciation of your consideration in extending the invitation, I am,

Very truly, yours,

FRANCIS E. MCGOVERN.

The chairman inquired whether or not counsel were present to represent Mr. Stephenson. Whereupon Hon. Charles E. Littlefield, Mr. W. E. Black, and Mr. H. A. J. Upham appeared on his behalf and were recognized by the committee.

The joint resolution and specific charges certified to the United States Senate by the governor of Wisconsin were then read. (Transcript, pp. 4 and 5.)

Before entering upon the examination of witnesses by the committee Hon. Charles E. Littlefield, of counsel for Mr. Stephenson, requested leave to make a statement, which leave was granted. (Transcript, pp. 6-23.)

The subcommittee then proceeded to the examination of witnesses and documents, which examination occupied 25 days, during which time 116 witnesses were sworn and examined, 36 affidavits received, and upward of 2,100 pages of printed testimony taken, which testimony, affidavits, and exhibits are herewith offered as a part of the report of the subcommittee.

The subcommittee was directed to investigate certain charges preferred by the Legislature of Wisconsin against Mr. Stephenson. These charges were set forth in the communication of the governor of Wisconsin, and the papers accompanying the same, certified to the United States Senate, among which was the joint resolution adopted by the Legislature of Wisconsin on June 26, 1911, which is found on page 2 of the transcript.

The charges referred to in the resolution under which the subcommittee acted are as follows:

SPECIFIC CHARGES.

1. That Isaac Stephenson, of Marinette, Wis., now United States Senator and a candidate for reelection, did, as such candidate for reelection, give to one E. A. Edmonds, of the city of Appleton, Wis., an elector of the State of Wisconsin and said city of Appleton, a valuable thing, to wit, a sum of money in excess of \$106,000, and approximating the sum of \$250,000, as a consideration for some act to be done by said E. A. Edmonds, in relation to the primary election held on the 1st day of September, 1908, which consideration was paid prior to said primary election, and that said Isaac Stephenson was at the time of such payment a candidate for the Republican nomination for United States Senator at such primary, and did by such acts as above set forth violate section 4543b of the statutes.

2. That said Isaac Stephenson did, prior to said primary, pay to said Edmonds above-mentioned sums with the design that said Edmonds should pay to other electors of this State, out of said sums above mentioned and other sums of money received by said Edmonds from said Isaac Stephenson, prior to said primary, sums ranging from \$5 per day to \$1,000 in bulk, as a consideration for some act to be done in relation to said primary by said electors for said Isaac Stephenson as such candidate, in violation of said section.

3. That with full knowledge and with instructions from said Isaac Stephenson, as to how and for what purposes said sums were to be expended, said sums were so paid as above stated to said Edmonds by said Isaac Stephenson and that said sums were paid as above stated for the purposes above stated and also for the purpose of bribing and corrupting a sufficient number of the electors of the State of Wisconsin to encompass the nomination of said Isaac Stephenson at said primary for the office of United States Senator.

4. That in pursuance of the purposes and design above stated said Isaac Stephenson did, by and through his agents, prior to said primary, pay to one U. C. Keller, of Sauk County, an elector of this State, the sum of \$300 as a consideration for some act to be done by said Keller for said Stephenson preliminary to said primary, corruptly and unlawfully.

5. That in further pursuance of such purposes and design said Isaac Stephenson, by and through his agents, prior to said primary, paid to one Hambright, of Racine, Wis., large sums of money as a consideration for some act to be done by said Hambright for said Stephenson preliminary to said primary, said Hambright being then an elector of this State, corruptly and unlawfully.

6. That in further pursuance of the purposes and design above stated said Isaac Stephenson did, by and through his agents, prior to said primary, pay to one Roy Morse, of Fond du Lac, Wis., then an elector of this State, the sum of \$1,000 as a consideration for some act to be done by said Morse for said Isaac Stephenson preliminary to said primary, and corruptly and unlawfully.

7. That in further pursuance of such purposes and design said Isaac Stephenson, by and through his agents, prior to said primary, paid to divers persons, then electors of the county of Grant, Wis., ranging from \$5 per day and upward, as a consideration for some act to be done by said several electors for said Isaac Stephenson preliminary to said primary, corruptly and unlawfully.

8. That in further pursuance of such purposes and design, said Isaac Stephenson, by and through his agents, prior to said primary, did pay to divers persons who were at such time electors in this State a consideration for some act to be done for said Isaac Stephenson by such electors preliminary to such primary, corruptly and unlawfully.

9. That in further pursuance of such purposes and designs said Isaac Stephenson, by and through his agents, prior to said primary, did pay to electors of this State, who were of a different political opinion and who held to other political principles than those of the Republican Party, more particularly Democrats, sums of money as a consideration for some act to be done by such electors for said Isaac Stephenson preliminary to said primary, corruptly and unlawfully.

10. That in further pursuance of such purposes and design said Isaac Stephenson, by and through his agents, prior to such primary, did offer to pay to Edward Pollock, of Lancaster, Wis., certain sums of money, as editor of the Teller, a newspaper published in said city of Lancaster, Wis., and to other editors of newspapers who were at such time electors of this State, and for the purpose of purchasing the editorial support of such editors and as a consideration of something to be done relating to such primary, corruptly and unlawfully.

11. That said Isaac Stephenson did, prior to such primary, by and through his agents, promise and agree to pay to one Lester Tilton, a then resident and elector of this State, and residing at the city of Neillsville, Wis., a sum in excess of \$500 to procure or aid in procuring the nomination of said Lester Tilton to the assembly of this State from Clark County, and did offer to give to said Lester Tilton a sum in excess of \$500 if said Lester Tilton would become a candidate for the assembly from said Clark County if said Lester Tilton would support said Isaac Stephenson for the office of United States Senator, all of which is in violation of sections 4542b and 4543b of the statutes.

12. That said Isaac Stephenson did, by and through his agents, give and promise and pay or agree to pay to other electors of this State sums of money to procure or aid in procuring the nomination of such electors to the senate and assembly of this State other than those electors residing in the district where said Isaac Stephenson resides.

13. That E. M. Heyzer and Max Sells, prior to said primary, being at such time employees of the Chicago & North Western Railway Co., a corporation doing business in this State, did contribute and agree to contribute free services as such employees for the purpose to defeat the candidacy of former assemblyman E. F. Nelson, from the district embracing Florence, Forest, and Langlade Counties, for the nomination for assemblyman from said district, all of which was done with the knowledge and consent and under the direction of said Isaac Stephenson, his agents, and employees, contrary to chapter 492, Laws of 1905.

14. That in further pursuance of the purposes and design above set forth said Isaac Stephenson, by and through his agents, did, in addition to paying certain sums as above set forth, offer and agree to pay to electors of this State, prior to said primary, a premium or bonus to those who in his employ carried their respective precincts in such primary for said Isaac Stephenson as such candidate.

15. That said Isaac Stephenson, if claiming an election by virtue of receiving a plurality of votes at such primary, then said Isaac Stephenson has violated chapter 502 of the laws of 1905 by failing and neglecting to file his expense account as provided by said chapter.

16. Charging generally the primary nomination or election of said Isaac Stephenson was obtained by the use of large sums of money corruptly and illegally, by the violation of sections 4542b, 4543b, and 4478b of the statutes relating to illegal voting, bribery, and corruption, and other laws above set forth relating to elections and primary elections.

John J. Blaine, a State senator, who made the said 16 specific charges, which constituted the basis of the legislative investigation, was examined in detail as to each of such charges and failed to sustain any of them, either by his own testimony or by reference to the testimony of others. The charges were made on information and belief according to his own testimony. He seemed upon examination to have no information upon which any belief as to their truth could be based.

An inspection of his testimony (transcript, p. 592, etc.) will fully justify the conclusion of the subcommittee that such charges were not sustained.

These charges were investigated by two legislative committees; first, by a joint committee which submitted a report which was not finally acted upon; second, by a committee of three members of the State senate, only one member of which was a member of the legislature when the report of that committee was made.

The time within which the joint legislative committee might take testimony and report was limited by the legislature to expire on the 13th day of April, 1909, and on that day the said committee met and adopted a resolution that each member make an outline of his proposed report and submit it at a later day for discussion before the committee.

Said committee then adjourned subject to the call of the chairman of the senate or assembly committee.

This ended the work of the joint investigating committee.

The State senate, acting independently of the assembly and in view of the expiration of the time within which the joint committee might finish its work, adopted a resolution on March 25, 1909, authorizing the president of the senate to appoint a committee consisting of three members to complete the investigation that had been carried on by the joint committee and to "further fully, fairly, and thoroughly investigate the campaign and election of Isaac Stephenson as a United States Senator, and the campaign and election of members of the legislature so far as their election in any way pertains to or affects the election of Isaac Stephenson as a United States Senator."

SPECIFIC QUESTIONS PRESENTED FOR CONSIDERATION.

In the order of their importance the duties of the subcommittee may be classified as follows:

First. To investigate the proceedings by the legislature, including the actions of Senator Stephenson and those representing him, during the session of the legislature.

Second. To investigate the campaign and election of members of the legislature so far as their election in any way pertains to or affects the election of Isaac Stephenson as a United States Senator.

Third. The primary election and the campaign.

ELECTION OF A SENATOR BY THE LEGISLATURE.

The law providing for the election of Senators by the legislature is as follows, being chapter 1, title 2, of the Revised Statutes of the United States:

SEC. 14. The legislature of each State which is chosen next preceding the expiration of the time for which any Senator was elected to represent such State in Congress shall, on the second Tuesday after the meeting and organizing thereof, proceed to elect a Senator in Congress.

SEC. 15. Such election shall be conducted in the following manner: Each house shall openly, by a viva voce vote of each member present, name one person for Senator in Congress from such State, and the name of the person so voted for who receives a majority of the whole number of votes cast in each house shall be entered on the journal of that house by the clerk or secretary thereof; or if either house fails to give such majority to any person on that day, the fact shall be entered on the journal. At twelve o'clock meridian of the day following that on which proceedings are required to take place as aforesaid the members of the two houses shall convene in joint assembly, and the journal of each house shall then be read, and if the same person has received a majority of all the votes in each house he shall be declared duly elected Senator. But if the same person has not received a majority of the votes in each house, or if either house has failed to take proceedings as required by this section, the joint assembly shall then proceed to choose, by a viva voce vote of each member present, a person for Senator, and the person who receives a majority of all the votes of the joint assembly, a majority of all the members elected to both houses being present and voting, shall be declared duly elected. If no person receives such majority on the first day, the joint assembly shall meet at twelve o'clock meridian of each succeeding day during the session of the legislature and shall take at least one vote until a Senator is elected.

SEC. 16. (Relates to filling vacancies.)

SEC. 17. (Also relates to the filling of vacancies.)

SEC. 18. It shall be the duty of the executive of the State from which a Senator has been chosen, to certify his election, under the seal of the State, to the President of the Senate of the United States.

SEC. 19. The certificate mentioned in the preceding section shall be countersigned by the secretary of state of the State.

PROCEEDINGS IN THE LEGISLATURE.

The Forty-ninth Legislature of Wisconsin consisted of 33 senators and 100 assemblymen, and convened at the capitol at Madison on January 13, 1909, at 12 o'clock m.

On Thursday, January 14, 1909, the organizing of both houses was complete, and the assembly adjourned until Tuesday, January 19, at 10 o'clock.

The senate organized on January 13, 1909, and on January 14 Senator Husting introduced joint resolution 3, providing for the investigation of the primary election, which was laid over until the next session, and the senate adjourned until Tuesday, January 19, at 10 o'clock a. m.

On Tuesday, January 26, the senate considered joint resolution 3, and a substitute was introduced by Senator Blaine. (Senate Journal, pp. 72-77.) This substitute contains the specific charges.

On January 26, 1909, a vote was taken on the election of United States Senator, each house voting separately.

In the senate the total number of votes cast was 17. Mr. Stephenson received 12 votes, Brown 4, Rummel 1. (Senate Journal, pp. 78-79.)

On the same day, January 26, upon the call of the roll in the assembly, the total number of votes cast for Senator was 84. Mr. Stephenson received 60, Neal Brown 16, Jacob Rummel 3, S. A. Cook

2, H. A. Cooper 1, J. H. Stout 1, and John J. Esch 1, which result was announced by the speaker. (Assembly Journal, pp. 74-75.)

On Wednesday, January 27, resolutions were introduced in the senate, among others joint resolution 8, being an arraignment of the United States Senate and a demand for its abolition, introduced by Senator Gaylord. (Senate Journal, p. 86.) It was referred to the committee on Federal relations. This is mentioned in passing only to show the temper of the legislature on the day of the first joint ballot for United States Senator.

At 12 o'clock noon of January 27, 1909, the two houses met in joint convention. The lieutenant governor, presiding, stated:

Gentlemen of the joint convention, you are assembled here for the purpose of expressing your choice for United States Senator. In order to comply with the Federal law the clerk of the senate and the clerk of the assembly will read from the journal of each house, respectively, the proceedings of the preceding day with reference to the election of a United States Senator.

The senate journal (p. 94) and the assembly journal (p. 80) records as follows:

The chief clerk of the senate read the journal of the senate of January 26, 1909, and the chief clerk of the assembly read the journal of the assembly of January 26, 1909.

The president then said: "The clerk will call the roll. As your names are called you will arise from your seats and announce the candidate of your choice."

Senator Hudnall said:

I rise to protest against any other proceedings being taken in the joint assembly at this time except the announcement of the presiding officer that Hon. Isaac Stephenson is elected to the United States Senate for the term commencing March 4, 1909. I do that for the reason that it appears from the journal of the senate that the total number of votes cast for persons were 17, of which Isaac Stephenson received 12, Neal Brown 4, Jacob Rummel 1, and the journal of the assembly shows that of the members who voted for persons there were 60 for Stephenson, 10 for Brown, and 3 for Jacob Rummel; and it further appears from both journals of senate and assembly that Isaac Stephenson received a majority of all the votes cast in each house.

It devolves then upon the president of this joint assembly to declare Isaac Stephenson duly elected to the United States Senate, and then the duty devolves upon the president of the senate and speaker of the assembly to certify his election to the governor and to the secretary of state, and they to certify his election to the United States Senate. Any other proceeding is out of order and nugatory.

Senator Hudnall stated that he made this statement as a protest and as a point of order. The president held the point of order not well taken and held that Senator Hudnall was out of order in his protest.

The presiding officer then directed the nomination of candidates, and the joint assembly proceeded to vote for a United States Senator. There were 131 votes cast, of which Isaac Stephenson received 65, and the presiding officer announced that "it appears from the records of the convention that no person has received a majority of the votes cast for United States Senator." Whereupon the joint convention dissolved.

On no other day until the 4th of March, 1909, did anyone receive a majority of the votes cast in joint assembly. On that day (the 4th of March) upon the twenty-fourth ballot of the joint assembly there were 123 votes cast of which Isaac Stephenson received 63. Whereupon the chairman of the joint assembly announced the election of Isaac Stephenson, and the joint assembly adjourned sine die.

At each session of the joint assembly the question as to whether any vote in the joint assembly was necessary was raised by protest against such proceedings upon the grounds that, Mr. Stephenson

having received a majority of the votes cast in each house voting separately, no other or further duty remained for the joint assembly than that of reading the journals of the two houses of the proceedings in each relative to the election of a United States Senator on the day previous. These journals were read and the fact disclosed that in each house Mr. Stephenson had received a majority of all the votes cast. It remained only that "he shall be declared duly elected Senator." The statute does not prescribe who shall declare the person receiving a majority of the votes in each house elected Senator, nor in what form such declaration shall be made.

From the reading of the law it would seem that when the two Houses voting separately each gave Mr. Stephenson a clear majority and having met in joint session on the day following the vote in the separate houses, the journal of the proceedings of the two houses voting separately being read in joint convention and the result announced, the election was completed; the mere failure to declare him elected could not in any way defeat the will of the two houses as expressed in their separate votes.

The failure to make a specific declaration of his election was not vital. The action of the governor and secretary of state in deferring the certificate of his election or in misstating the time of his election could not affect that election.

If we are correct in assuming that the election of Isaac Stephenson was accomplished when the record of the two houses was read and announced in the joint assembly, then the failure or delay of the executive officers to perform their duty could in no way defeat his election as of the date of the meeting of the first joint assembly.

ACTS OF BRIBERY CHARGED.

Charges of bribery in the interest of Mr. Stephenson's election had been freely made both before the subcommittee and before the legislative investigating committee. Not one of these charges have been sustained by the testimony.

The word "bribery" has been applied to many acts that do not constitute bribery.

The procurement of advertising space or editorial comment in the newspapers upon the payment of money by or on behalf of a candidate for office can not under any construction of law be held to be bribery.

The procurement of the services of men to speak either publicly or personally on behalf of any candidate, or to canvass the electorate on his behalf, is not bribery under any reasonable construction of the law.

If the testimony were true that money was offered to Assemblyman Leuch to go upon the floor and vote for the purpose of effecting a quorum it would not constitute bribery. It was the duty of such member to go upon the floor and vote.

The charge of an attempt to bribe H. R. Pestalozzi utterly failed of proof before your committee.

The charge of unlawful dealings with the Milwaukee Free Press utterly failed of proof. It was conceded that Mr. Stephenson owned a controlling interest in that paper and he was certainly entitled to have its support and to sustain his interest in it.

BRIBERY.

The law of Wisconsin relative¹ to bribery is as follows:

SEC. 39. *Bribery of signers to petitions, etc.*—1. Any person who shall offer, or with knowledge of the same permit any person to offer for his benefit, any bribe to a voter to induce him to sign any * * * nomination paper * * * and any person who shall accept any such bribe or promise of gain of any kind in the nature of a bribe as consideration for signing the same, whether such bribe or promise of gain in the nature of a bribe be offered or accepted before or after such signing, or any candidate who shall knowingly cause a nomination paper, or papers, to be signed in his behalf by more than the maximum number of qualified electors provided for his district by subdivision 5 of section 11-5 of this act, shall be guilty of a misdemeanor and upon trial and conviction thereof be punished by fine of not less than \$25 nor more than \$500 or by imprisonment in the county jail of not less than 10 days or more than 6 months, or by both such fine and imprisonment.

Penalties: Caucus and general election laws applicable.—2. Any act declared an offense by the general laws of this State concerning caucuses and elections shall also, in like case, be an offense in primaries and shall be punished in the same form and manner as therein provided, and all the penalties and provisions of the law as to such caucuses and elections, except as herein otherwise provided, shall apply in such case with equal force and to the same extent as though fully set forth in this act.

SEC. 40. *General election laws applicable (secs. 11-25).*—The provisions of the statutes now in force in relation to the holding of elections, the solicitation of voters at the polls, the challenging of voters, the manner of conducting elections, of counting the ballots and making return thereof, and all other kindred subjects, shall apply to all primaries in so far as they are consistent with this act, the intent of this act being to place the primary under the regulation and protection of the laws now in force as to elections.

SEC. 263. *Bribery at elections (sec. 4478).*—The following persons shall be deemed guilty of bribery at elections:

1. Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give, lend, or agree to give, or lend, or offer, promise or promise to procure or endeavor to procure any money or valuable consideration, to or for any voter, to or for any person on behalf of any voter, or to or for any other person in order to induce any voter to vote or refrain from voting, or do any such act as aforesaid, corruptly, on account of such voter having voted or refrained from voting at any election.

2. Every person who shall, directly or indirectly, by himself or by any other person on his behalf, give or procure, or agree to give or procure, or offer, promise, or endeavor to procure any office, place of employment, public or private, to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce such voter to vote or refrain from voting, or do any such act as aforesaid, corruptly, on account of any voter having voted or refrained from voting at any election.

3. Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make any such gift, loan, offer, promise, procurement, or agreement as aforesaid to or for any person in order to induce such person to procure or endeavor to procure the election of any person to a public office, or the vote of any voter at any election.

4. Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procure, or engage, promise or endeavor to procure the election of any person to a public office or the vote of any voter at any election.

5. Every person who shall advance or pay or cause to be paid any money to or for the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election, or who shall knowingly pay or cause to be paid any money wholly or in part expended in bribery at any election.

Penalty.—And any person so offending shall be punished by imprisonment in the State prison for a term of not less than six months nor more than two years: *Provided*, That the foregoing shall not be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses authorized by law and bona fide incurred at or concerning any election.

SEC. 264 (sec. 4478a). The following persons shall also be deemed guilty of bribery at elections:

¹ Reference is to "Election Laws of Wisconsin," published by J. A. Frear, secretary of state, 1908.

1. Every voter who shall, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive, agree, or contract for any money gift, loan, or valuable consideration, office, place of employment, public or private, for himself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any election.

2. Every person who shall, after any election, directly or indirectly, by himself or by any other person in his behalf, receive any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting at any election; and any voter or other person so offending shall be punished by imprisonment in the county jail not less than one month nor more than one year.

SEC. 266. *Office obtained by bribery, vacant (sec. 4481).*—Any person who shall obtain any office or shall have been elected to any office at any election, at which election he shall have induced or procured any elector to vote for him for such office by bribery, shall be disqualified from holding said office, and he shall be ousted therefrom, and said office shall be deemed and held vacant, to be filled by election or appointment as other vacancies, according to law.

SEC. 294. *Bribery at caucus or convention (sec. 4479).*—Any person being, or seeking to be, a candidate for any office at any election authorized by law who shall give, or promise to give, to any elector or other person any money or thing of value or any pecuniary advantage or benefit for the purpose of inducing or influencing such elector or other person to vote for him in any convention or meeting of the people held for the purpose of nominating any person or persons to be voted for at any such election to make him the nominee of any such convention or meeting and the candidate to be voted for for any office at such election, or who shall so give or promise any such thing to any such person for the purpose of inducing or influencing any person to sign any nomination paper which seeks to have him nominated as a candidate for any office to be so voted for; and any such elector or other person who shall ask, solicit, or receive any money or thing of value or any pecuniary advantage or benefit from such candidate as a consideration or inducement for his vote at any such convention or meeting of the people, or his signature to any such paper, shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding \$500.

SEC. 296. *Bribery in connection with caucus (sec. 4542b).*—Every person who, by bribery or corrupt or unlawful means, prevents or attempts to prevent any voter from attending or voting at any preliminary meeting or caucus mentioned in sections 11a to 11i, or who shall give or offer to give any valuable thing or bribe to any officer, inspector, or delegate whose office is therein created, or who shall give or offer to give any valuable thing or bribe to an elector as a consideration for some act to be done in relation to such preliminary meeting, caucus, or convention, or who shall interfere with or in any manner disturb any preliminary meeting, caucus, or convention held under said provisions shall be punished as provided in section 4542a.

SEC. 298. *Bribery of voter; disturbance at caucus or convention.*—Every person who, by bribery or corrupt or unlawful means, prevents or attempts to prevent any voter from attending or voting at any caucus mentioned in this act, or who shall give or offer to give any valuable thing or bribe to any officer, inspector, or delegate whose office is created by this act, or who shall give or offer to give any valuable thing or bribe to any elector as a consideration for some act to be done in relation to such caucus or convention, or who shall interfere with or in any manner disturb any caucus or convention held under the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished in the manner hereinafter provided. (Ch. 341, 1899.)

CHARGES OF CORRUPTION IN THE LEGISLATURE.

On page 2271 of the Report of the State Senate Investigating Committee an attempt is made to summarize the corruption alleged to exist in connection with the election by the legislature, and the first objection is that Mr. Stephenson was elected by the legislature by a majority of three votes while the charges of corruption against him were being investigated by the legislature. This charge seems hardly worthy of serious consideration. It was admitted that he was elected by the legislature, and there is no law or rule that would invalidate the election because of the pendency of these charges. That was a matter for the members of the legislature to consider in determining whether or not they would vote for him.

ABSENT MEMBERS ON MARCH 4.

The next charge is that the election of Mr. Stephenson was made possible by three members, who, it is claimed, at the instigation of Mr. Stephenson's managers and agents, absented themselves from the joint assembly when it became known that their presence would prevent the election of Mr. Stephenson, and it was charged that the absence of these three members had been procured by fraudulent or wrongful means by or on behalf of Mr. Stephenson. It was the only charge of corruption in connection with the election of Mr. Stephenson by the legislature worthy of consideration.

The result of the vote on March 4 consequent upon the absence of these three members is made plain in the testimony of Richard J. White (p. 1324) and by an examination of the journal of the joint assembly on March 4. On that day the total number of votes cast was 123, of which Isaac Stephenson received 63.

The members of the legislature whose absence from the chamber on March 4 was questioned were Messrs. Farrell, Ramsey, and Towne.

On March 3 Farrell voted for Neal Brown, Ramsey voted for George W. Peck, and Towne did not vote at all.

On March 2 Farrell and Ramsey voted for Neal Brown, and Towne voted for Lucknow.

On March 1 neither Farrell, Ramsey, nor Towne voted at all.

On February 27 Ramsey voted for Wall, Farrell voted for Neal Brown, and Towne did not vote at all.

On February 26 Towne voted for Thomas A. Stewart; neither Farrell nor Ramsey seem to have voted.

These instances are cited to show that on the face of the transaction there was nothing unusual in the absence of either of the three absentees on March 4, and nothing in their absence to raise the presumption of corruption therein.

It is true that had these three members been present and voted the total vote would have been 126, and the 63 votes received by Mr. Stephenson would not have elected, but the evidence clearly establishes the fact that Mr. Ramsey, one of the three absentees, was paired with Mr. Fenelon and that such pairs had been universally recognized, so that Mr. Ramsey can not be said to have been absent for any corrupt purpose, nor would his absence from the joint assembly affect the result of the vote. Being paired, he could not have voted. In that event, had Farrell and Towne been present the total vote would have been 125, of which Mr. Stephenson received 63. Sixty-three would have been a majority and would have elected Mr. Stephenson, so that the absence of Farrell and Towne did not affect the result of the election, and it can not therefore be said that the election was brought about through corrupt practices so far as the absence of Farrell and Towne was concerned.

It is not charged that any other member who voted for Mr. Stephenson did so either from corrupt motives or actions on his own part or that he was procured to do so by any corrupt action on the part of any person in the interest of Mr. Stephenson.

The votes cast for Mr. Stephenson were those that had been consistently supporting him throughout the contest. There was no change in his favor upon which any presumption of corruption could be based.

Does the evidence show or tend to show that there were corrupt measures or unlawful methods adopted to secure the absence of either Farrell or Towne?

There has been much sensational testimony introduced before the subcommittee, which was heard largely because such testimony had been received by the legislative investigating committee for the purpose of showing bribery or corrupt methods in connection with the absence of Ramsey, Farrell, and Towne. It was not shown that any money had been traced to either of these men from any source in connection with the matter; but it was claimed that a fund had been raised to be used for corrupt purposes, and that, on the assumption that such fund had been raised, it must at least in part have been used to bring about the absence of these three members of the legislature.

It was claimed that Senator Stephenson had entered into an arrangement with Edward Hines and R. J. Shields for using money for corrupt purposes to be furnished by Mr. Stephenson, and much hearsay testimony was introduced for the purpose of establishing such fact. There can be no question but what the effort to establish any such charge utterly failed. There was no evidence upon which any reasonable conclusion that such corruption fund had been either raised or used could be based.

The charge as to a meeting between the three absentees or some of them and Mr. Regan and Mr. Puelicher at the Plankington House in Milwaukee centered about the testimony taken before the legislative investigating committee of a witness, Frank T. Wagner, who was utterly discredited both at the legislative investigation and by testimony introduced before the subcommittee. It was shown that he is now under sentence in the penitentiary for perjury for having testified to seeing these men in the Plankington Hotel and hearing a conversation upon which the charge that they had entered into a corrupt bargain at that time rested. All the testimony in regard to such a transaction fell to the ground, and was so manifestly without foundation as to call for no consideration except its dismissal.

CHARGE OF BRIBERY OF OTHER MEMBERS.

There seems to have been some remark on the part of Mr. Damochowski and Mr. Lyons as to the tender of money being made them in connection with this election, but on the witness stand they both stated that whatever statements they made in that regard were made in jest and that there was no foundation in truth for them.

Some sensational testimony was introduced in regard to statements made by Mr. R. J. Shields as to having received money or handled money in the interest of Mr. Stephenson in a corrupt manner in dealing with members of the legislature, and members of the senate legislative investigating committee had gone to the office of a certain attorney in Chicago and there met Mr. Wirt Cook of Duluth, Minn., who recited to them some hearsay statements as to conversations and acts which were fully investigated by the subcommittee and found to be entirely without foundation.

We may therefore safely dismiss the charges of corruption in connection with the action of the legislature in electing Mr. Stephenson, whether such election is held to have been on January 26 or on March 4, 1909.

GENERAL CAMPAIGN AND ELECTION.

It appears that Mr. Stephenson contributed \$2,000 to the Republican State central committee. Against this contribution no legitimate objection can be urged. It was not in violation of any law nor for other than general election purposes.

It was also shown by testimony that Mr. Stephenson before the primary gave money to C. C. Wellensgard, Levi H. Bancroft, and Thomas Reynolds, who were candidates for the legislature. These men testified that they used the money in the interest of Mr. Stephenson at the direct primaries. If we eliminate Mr. Stephenson from the direct primaries the contributions which he made to these candidates for nomination and election to the legislature would be in violation of no law. It appears from the testimony that they were at the time voluntary and ardent supporters of Mr. Stephenson regardless of any money which they may have received or which may have been placed in their hands by him for any purpose.

There is not sufficient evidence upon which to base a charge of bribery or any other charge that would affect the validity of the election of Mr. Stephenson in either of these cases.

DIRECT PRIMARY.

The subcommittee, in determining the scope of the investigation, was confronted with the question as to how far, if at all, the charges affecting the candidacy of Isaac Stephenson before the direct primary should be considered.

The State legislative committee had directed its attention principally to the direct primary and the conduct of the candidates therein.

It was doubtless competent for the legislature to provide for direct primaries for the nomination of candidates for the legislature and to place legal restrictions about them to secure the integrity of their elections, but, as herein elsewhere more fully stated, it is not competent for the legislature to provide for the nomination of candidates for the United States Senate at direct primaries.

The status of Mr. Stephenson at such primaries is not comparable to that of candidates for the legislature or for any State office.

The language of the resolution under which the subcommittee acted directs it to report whether "in the election of Isaac Stephenson there were used or employed corrupt methods or practices," and the language of the last paragraph of section 1 of the resolution, bringing the matter to the attention of the United States Senate, strictly construed, refers only to the election.

When we speak of the election of a United States Senator under existing constitutional and legislative provisions we contemplate only the election by the legislature of the State. There is as yet no recognition to be given extra-legislative proceedings in the nature of what is termed "direct primaries," no such method of selection being recognized by any law of the United States.

The subcommittee has, however, brought to the attention of the Senate in the record of its proceedings all the facts obtainable relating to the conduct of the primary. Should it be the judgment of the Senate that such facts are irrelevant, then the consideration would be limited

to matters concerning the election of members of the legislature, and the acts and conduct of members of the legislature and candidates in relation to the election of a Senator by the legislature.

The direct primary, legally speaking, is no part of an election of a United States Senator. The duty of an election of a Senator does not under any law rest with the electorate, but is vested by the Constitution solely in the legislature. The legislature electing had no existence until after the general election. The nomination of such members at the primary vested in the nominees not even an inchoate status. A State may give force and effect to a direct primary law providing for the nomination of candidates for State or minor offices to be elected under the laws of the State, but the legislature has no power to regulate in any manner or to any extent the election of a United States Senator, and there is no such proceeding known under any law of the United States as the nomination of a candidate for the United States Senate.

The question arises, Can any act in contravention of a law that is absolutely void work a forfeiture of any right to an office vested through the compliance with the Constitution and laws of the United States? Did the proceedings preceding and at the direct primary relative to a choice for United States Senator amount to more than a "straw vote"?

The mere fact that the Legislature of Wisconsin had undertaken to include a senatorial selection within the provisions of its direct-primary law, in the absence of power to so legislate, could not affect the validity of an election by the legislature made pursuant to national law; this must be obvious from the fact that the legislature was not in duty bound to elect anyone or consider anyone a candidate for election because of the action of the direct primary. It might have ignored such action altogether, and its having done so would not in any way affect the validity of its action.

There is no law of the United States recognizing such a thing as "candidacy" for the United States Senate, and no legal status is given to the frame of mind constituting an intention on the part of a man or his friends that he become a candidate before the legislature.

The question also arises as to the period when a man can be charged with responsibility for his acts so as to affect the validity of his subsequent election by the legislature.

It frequently occurs that none of the men who are avowed candidates are chosen. The matter rests solely with the legislature, and under existing laws one legislature can not dictate the rule governing a subsequent legislature in the manner of its procedure relative to matters resting entirely within its discretion.

It would be entirely within the power of a legislature, charged with the responsibility of electing a United States Senator before proceeding to elect a Senator, to repeal any legislation enacted by a previous legislature which placed a limit upon or directed its action.

It seems from this consideration of the question we must conclude that the direct-primary proceedings can not be held to affect the validity of an election by the legislature.

FAILURE TO FILE PROPER EXPENSE ACCOUNT.

The fifteenth specific charge is based upon the failure or neglect of Isaac Stephenson to make and file an expense account under the laws of Wisconsin. This requirement is under section 270 of the election laws which provides that every person who shall be a candidate before any convention or at any primary or election to fill an office for which a nomination paper or certificate of nomination may be filed, shall, within thirty days after the election held to fill such office, make out and file with the officer empowered by law to issue the certificate of election to such office or place, a statement in writing, etc., and that any person failing to comply with this section shall be punished by fine of not less than \$25 or more than \$500. This being a penal statute, the validity of an election could not be affected by the failure to comply with it.

GENERAL COMMENT.

The rule adopted by the several candidates for said office seems to have been unanimous in regard to filing expense accounts.

Senator Stephenson's expense account was \$107,793.05.

S. A. Cook's expense account was \$42,293.29.

William H. Hatton's expense account was \$26,413.

Francis E. McGovern's expenditure was \$11,063.88.

Neal Brown's expense account was \$1,075.87.

The total expenditures of all candidates for the office of United States Senator before the primary election was about \$225,000.

Less than one-half of the voters at the general election voted at the primary. The total vote cast in the Republican primaries for the nomination of United States Senator was 182,915, being 81 per cent of the total primary vote cast by all political parties for Senator.

The total vote cast in the Democratic Party for United States Senator was 37,479, or about 17 per cent of the total primary vote of all parties cast for Senator, and about 23 per cent of the total Democratic vote cast for governor at the general election.

Mr. Stephenson, a Republican candidate, received 56,909 votes.

Mr. Cook, a Republican candidate, received 47,825 votes.

Mr. McGovern, a Republican candidate, received 42,631 votes.

Mr. Hatton, a Republican candidate, received 35,552 votes.

Mr. Brown, a Democratic candidate, received 24,937 votes.

Mr. Hoyt, a Democratic candidate, received 12,227 votes.

Mr. Rummel, Social Democratic candidate, received 4,047 votes.

On the basis of the total vote received by each senatorial candidate and the total cost of each candidate's campaign:

Mr. Stephenson spent \$1.89 for every vote cast for him.

Mr. Cook spent \$0.88 for every vote cast for him.

Mr. Hatton spent \$0.85 for every vote cast for him.

Mr. McGovern spent \$0.26 for every vote cast for him.

Mr. Brown spent \$0.42 for every vote cast for him.

Mr. Hoyt spent \$0.16 for every vote cast for him.

And there was spent in behalf of Mr. Rummel, the Socialist Democratic candidate, about \$1 per vote.

Were it possible to hold that Mr. Stephenson was subject to the same restrictions under the laws of Wisconsin as a candidate for a State office, we would feel compelled to enter more fully upon the nature and character of the expenditures made by him and on his behalf during the primary campaign.

The amount of money expended by Mr. Stephenson, Mr. Cook, Mr. Hatton, and Mr. McGovern in the primary campaign was so extravagant and the expenditures made by and on behalf of these gentlemen were made with such reckless disregard of propriety as to justify the sharpest criticism. Such expenditures were in violation of the fundamental principles underlying our system of Government, which contemplated the selection of candidates by the electors and not the selection of the electors by the candidate.

Regardless of any statute requiring that strict accounts be kept of money expended by and on behalf of candidates, a candidate and every man representing him should know that public opinion would expect the parties to place and maintain themselves in a position so that if any of their acts were questioned they could justify such acts to the extent of giving every detail in regard thereto.

While I do not believe that the law of Wisconsin could constitute any man a candidate or place him in the position of and under the responsibilities of a candidate for an office over which the State had no control and which was not to be filled under any law of the State, yet I feel impelled to criticize the acts of those in charge of the expenditure of the money of men who are called candidates for the Senate, and especially of Mr. Stephenson, in the irresponsible and reckless manner in which they disbursed the money furnished them by Mr. Stephenson during the period of the primary campaign.

The failure to keep detailed accounts, the destruction of memoranda, the shifting of records and papers concerning the campaign from one place to another, the adoption of mysterious methods and roundabout ways in regard to matters that might just as well have been performed in open daylight in the presence of the people, would go far toward creating the impression that there was some occasion for Mr. Stephenson's representatives to avoid candor and to obscure conditions.

The subcommittee has gone carefully through all of the letters and correspondence which had been in the hands of Mr. Stephenson and his managers and which had been shifted from Milwaukee to Marinette and from Marinette to points in Michigan, and back again, under most unusual and mysterious circumstances. These letters are not out of the ordinary political correspondence of campaign managers and citizens whose votes, influence, or services are solicited in behalf of a candidate.

The letters transmitting and acknowledging the receipt of money have been considered separately from those giving information in regard to political conditions and instructions in regard to how political work shall be done. There is nothing in the letters transmitting or acknowledging the receipt of money that would seem to add anything to the information given by witnesses in explaining these expenditures so far as they could explain them. The subcommittee has not thought it necessary to print this correspondence, which is in evidence and might be held to constitute a part of the record of the investigation. In our judgment, it would add nothing in the way of

assistance to the committee in ascertaining the facts necessary and proper to be considered in connection with the investigation.

Were a candidate for a State office in Wisconsin to conduct a campaign in the manner in which the campaign of Mr. Stephenson, and of other men who sought election to the United States Senate, were conducted, it would be very difficult to justify such conduct under the laws of the State.

The joint senatorial primary investigating committee in its report (submitted Mar. 18, 1910, but never acted upon), after reviewing the testimony, says:

Your committee believes that the Republican senatorial candidates and their managers did not deliberately plan to violate the law, but in their desire to win these candidates, particularly Stephenson, Cook, and Hatton, conducted their campaigns with the idea of getting results, and men were hired and money spent, and State officials and employees and members of the legislature were used without much regard to propriety. All of the Republican candidates probably spent all they could afford and the amount spent by the different candidates was probably limited more by their ability to spend than their appreciation of the moral effect of the expenditure of such large sums of money to secure the nomination.

This committee evidently looked upon the result of the direct primary as shown by the vote cast therein for each of the men who sought election to the United States Senate as constituting a legal nomination. I entertain a different view of that matter and look upon the primary nomination as a mere expression of a choice without legal effect, and do not recognize such expression as binding upon the legislature.

CONCLUSION.

The testimony clearly shows that the candidates felt compelled to spend more money than they wanted to spend. The pressure upon them from those who were undertaking to manage their campaigns seems to have been very great and persistent, but I can find nothing in the testimony nor in the circumstances or conditions surrounding the senatorial contest which resulted in the election of Mr. Stephenson that in my judgment would justify the committee in recommending that the seat be vacated, or that he be declared not legally elected to the United States Senate; and therefore I recommend that the Senate find that the charges preferred by the Legislature of Wisconsin against Isaac Stephenson, a Senator of the United States from the State of Wisconsin, are not true, and that Isaac Stephenson be acquitted of such charges.

W. B. HEYBURN.

VIEWS OF MR. POMERENE AND MR. SUTHERLAND.

The Senate Committee on Privileges and Elections authorized and directed its subcommittee "to investigate certain charges preferred by the Legislature of Wisconsin against Isaac Stephenson, a Senator of the United States from the State of Wisconsin, and to report whether 'there was used or employed corrupt methods or practices' in his election."

Without intending to specifically enumerate the charges made or to review in extenso the evidence in support or in refutation thereof, it will be sufficient for our purpose to classify the charges and evidence pertaining thereto, as follows:

First, those connected with the proceedings of the legislature affecting the election; and,

Second, those growing out of the primary election.

PROCEEDINGS OF THE LEGISLATURE.

Each house, pursuant to the Federal statute, convened for the election of the United States Senator on January 26, 1909. The senate consisted of 33 members and the assembly of 100 members. Thirty-three members of the senate were present, and, before balloting, passed a resolution providing that "any senator who does not wish to vote for a candidate may vote by answering 'present.'" The roll was called, and 17 senators voted for candidates, 12 of whom voted for Isaac Stephenson. The 16 other senators simply voted "present." In other words, a quorum, in the language of the statute, voted for "one person for Senator in Congress," and of this quorum Isaac Stephenson received a majority. While the vote "present" of the 16 senators was in accordance with the resolution passed, we do not believe it could either add to or detract from the requirements of the statute. All members, no doubt, should have voted for "some person," but 16 voted "present," which was equivalent to a blank vote.

In the language of the majority of the committee in *Ransom v. Abbott*, "Senate Election Cases," page 400, "The vote must be *for a person*, not a blank—in fact, not for a myth, but for a person."

Without intending to review the authorities it is clearly established that "votes knowingly cast for a candidate who can not possibly exercise the function of the office if elected are thrown away." (State ex rel. Bancroft *v.* Frear, 144 Wisc., 87.) And, if this be true, it must follow that a mere vote of "present" is nothing more than a vote for "no person," or, in other words, a "blank," and should not, therefore, be counted in determining whether Senator Stephenson received a majority of the quorum of those who voted for "one person for Senator," and thereby complied with the letter and spirit of the statute.

For other authorities bearing upon this proposition see *Sawyer v. Makie*, 149 Mass., 269; "Cooley on Constitution Limitations," 932, Note 1; *Rushville Gas Co. v. Rushville*, 6 L. R. A., 315; *Hopkins v. Duluth*, 81 Minn., 189; and *Commonwealth v. Cluley*, 56 Pa. St., 270.

On the same day in the assembly 82 votes out of the 100 assemblymen were cast, and Isaac Stephenson received 60 out of the 82 votes. He, therefore, received, in our judgment, "a majority of the whole number of votes cast in each house." The vote thus cast was entered upon the journal of the senate and of the house. In conformity with the provisions of the Federal statute, the members of the two houses convened at 12 o'clock noon, on the day following, in joint assembly. The journal of each house was read, and showed the result of the balloting on the previous day in each house separately, as hereinbefore stated. Having received a majority of all of the votes cast in each house, it was the duty of the presiding officer to declare Senator Stephenson duly elected. This was purely a ministerial duty, and the mere fact that he failed to perform that duty could not, under any legal principle, undo that which was legally done in the separate and joint sessions, and, except for this failure of the presiding officer, was completely done.

Instead of declaring the result, over the protest of Senator Huddall, a ballot was ordered and taken on that day and on each succeeding day until and including the 4th day of March, 1909. Prior to March 4 no one in any of the sessions received a majority of the votes cast. On March 4 there were 123 votes cast, of which Isaac Stephenson received 63, and he was then declared duly elected.

CHARGES OF CORRUPTION IN ACTION OF GENERAL ASSEMBLY.

Charges of corruption were made to the effect that—

(a) Assemblyman Leuch was offered money to go upon the floor and vote for the purpose of effecting a quorum;

(b) That Assemblyman Joseph Damochowski had been offered \$1,500 for his vote; and

(c) That Assemblymen Farrel, Ramsey, and Towne absented themselves from the joint session of the joint assembly on March 4 through corrupt influences.

CHARGE AS TO ASSEMBLYMAN LEUCH.

He testified that David H. Davies, on March 1, 1909, said: "I have authority to tell you that you can have anything you want if you will stay in the joint convention to-day and vote." Mr. Davies denied having any such conversation, and swore that he neither authorized nor was in a position to pay or promise Mr. Leuch anything whatsoever. Whether this conversation occurred or not, there is no evidence connecting it directly with Senator Stephenson, or even indirectly through any authorized agent.

CHARGE AS TO ASSEMBLYMAN DAMOCHOWSKI.

There was testimony to the effect that Joseph A. Damochowski had said to several parties that he had been offered \$1,500 for his vote in the assembly. He admitted that he had so stated upon several

occasions, but in explanation thereof said that any statements he made to that effect were in jest, and that no such offer was in fact made. Outside of these admitted statements, there was no evidence either that any bribe had been offered to or received by him, and no evidence tending to connect Senator Stephenson or his managers with this alleged attempt to bribe.

MEMBERS ABSENTING THEMSELVES ON MARCH 4.

On March 4, 123 members of the joint assembly were present and voting. Sixty-three members being a majority of those voting, cast their ballots for Mr. Stephenson, and, having for the first time received a majority of those voting in the joint session, he was duly declared elected.

We think it is fair to say that the record shows that an effort was made by some of the friends of Mr. Stephenson either to pair some of those who were opposed to Stephenson's election with those who were absent and favorable to his election, or to secure the absence of those who were opposed to his election, for the purpose of reducing the number who might be in the joint session and voting, and thereby enable those who were favorable to his election to have a majority of the votes cast.

Richard J. White, a friend of Mr. Stephenson, succeeded in pairing Ramsey, a Democrat, who was opposed to Stephenson's election, with Mr. Fenelon, who was a supporter of Mr. Stephenson and because of sickness was not able to attend the session.

Towne, a Democrat, left the chamber just before the voting began and was taken into a cloakroom by C. C. Wayland, one of Mr. Stephenson's lieutenants, and there held in conversation while the balloting was going on, and we have no doubt that Wayland purposely detained him, and Towne—to say the least—was indifferent about the situation.

Farrel left the assembly room before the roll was called and went to a café for luncheon, and did not return until sometime after the result of the election had been declared. The absence of Towne and Farrel while the joint assembly was in session is not consistent with their duties as assemblymen, nor is their explanation satisfactory. But, whatever the facts may be, there is no evidence in the record, nor any obtainable, so far as the committee knows, which would justify the conclusion that the absence of any of these three men was secured by corrupt means. It was necessary for Ramsey, Farrel, and Towne all to have been present and voting in order to prevent Stephenson from having a majority vote in the session. The other seven absentees were satisfactorily accounted for, and no suspicion, so far as we know, attaches to them.

We therefore conclude:

First, that the election in fact occurred on January 26, 1909; and

Second, that there is no evidence justifying the conclusion that corrupt "methods or practices" were employed in securing the vote on March 4, 1909, even if it should be held that the election took place on March 4.

PRIMARY ELECTION IRREGULARITIES.

Senator Stephenson's account filed with the Secretary of State shows that there was expended by him and through his committee

in connection with the primary election \$107,793.05. He received 56,909 votes, which cost him \$1.89 for every vote cast.

These expenditures, for the purpose of this report, may be divided into the following classes:

First, moneys paid out to persons employed by him or in his behalf to circulate nomination papers in order to get the number of signatures required by the Wisconsin statutes before his name could be placed upon the ticket.

Second, moneys paid out as follows:

- (a) to newspapers for political advertising;
- (b) for editorial support;
- (c) for lithographs, campaign material, postage, telephone, telegraph, and express charges;
- (d) office expenses, including rent, clerk hire, and assistants.

Third, payment for services of speakers, hall rent, music, and for men devoting their time and efforts in cultivating Stephenson sentiment throughout the State:

Fourth, moneys expended for workers at the polls, and for conveyances and services in getting out the voters;

Fifth, for drinks and cigars;

Sixth, money given to C. C. Wellensgard, L. L. Bancroft, and Thomas Reynolds, who were candidates for the legislature, to be used by them in the interest of Senator Stephenson:

Seventh, money paid to the game warden, John W. Stone, for use in the Senator's campaign;

Eighth, \$2,000 contributed by Senator Stephenson to the State campaign committee for general election purposes; and

Ninth, expenses incurred during the session of the general assembly in opening and maintaining headquarters at Madison from the beginning of the session until after March 4, 1909, and for hotel bills and traveling expenses.

No part of the contribution to the general campaign committee or the expenses incident to the headquarters during the session of the general assembly were ever reported to the secretary of state.

The above we believe to fairly represent the different classes of expenditure, which were disclosed by the evidence.

There was no evidence before the committee from which it could be fairly concluded that any of this money was expended for "corrupt methods or practices," unless those recited are to be construed as corrupt under the provisions of the Wisconsin statutes.

MANAGEMENT OF THE CAMPAIGN.

The testimony showed that Senator Stephenson had on deposit in the Marshall & Illsley Bank \$50,000, which was used in the campaign, with other added as required. His campaign was in charge of E. A. Edmonds, J. H. Puelicher, and Rodney Sackett.

There are 71 counties in the State and 2,200 election precincts. The method of the managers was to employ a lieutenant or campaign manager in each of the counties. In several instances one man had charge of a number of counties. Arrangements were made with these managers by which sums of money would be placed in their hands varying from \$100 or several hundred dollars to several thousand dollars. In some instances the manager was not given, and

would not accept, compensation for his services. In others definite arrangements were made for the amount of compensation the manager was to receive, and in many cases the manager would determine and retain for himself such sum or sums as he deemed proper. It is quite clear that a very substantial part of the money expended in the organization of the several counties never went beyond the pockets of those who received it. The money expended by these managers, so far as the testimony discloses, was for one or more or all of the purposes above described.

WISCONSIN ELECTION STATUTES.

The Wisconsin statutes defining election offenses are fully set forth on pages 10, 11, and 12 of the views submitted by Senator Heyburn, chairman of the subcommittee, and it will not be necessary, therefore, to insert them here.

APPLICATION OF THE LAW TO THE FACTS—NOMINATION PAPERS.

Before a candidate for office is entitled to have his name placed upon the ticket at a primary, the Wisconsin statute requires that petitions or nomination papers shall be filed, signed by at least 1 per cent of the voters of his party in at least each of six counties in the State, and in the aggregate not less than 1 per cent nor more than 10 per cent of the total vote of his party in the State.

The testimony shows that Senator Stephenson hired and paid men to circulate his nomination papers in order to get the required number of signatures, but there was no evidence showing that any money was paid, in the language of the statute, to induce anyone to sign his nomination papers, and we do not think it was seriously claimed by those who were interested in the instigation of these proceedings that any money was unlawfully expended for this purpose.

EXPENDITURES OF MONEY DURING THE PRIMARY CAMPAIGN.

Was it a violation of the statute to pay out money for political advertising in the newspapers, or for editorial support, or for lithographs, campaign material, or for telegraph, telephone, or express charges, or for office expenses, including rent and hire of assistants, or for the hiring of speakers, halls, rent, music, and for men devoting their time and efforts in cultivating Stephenson sentiment throughout the State, or to pay workers at the polls, or for conveyances and services in getting out the voters, or for money for drinks and cigars given in a social way during the campaign?

A careful examination of the bribery statutes of Wisconsin will indicate clearly that the expenditures of money of the character recited only comes within the inhibitions thereof, when they are made corruptly, unless section 298 forbids it. This section reads:

Every person who, by bribery or corrupt or unlawful means, prevents or attempts to prevent any voter from attending or voting at any caucus mentioned in this act, or who shall give or offer to give any valuable thing or bribe to any officer, inspector, or delegate, whose office is created by this act, or who shall give or offer to give any valuable thing or bribe to any elector as a consideration for some act to be done in relation to such caucus or convention
* * * shall be deemed guilty of a misdemeanor, etc.

None of these expenditures can come within any of the provisions of this section, unless it be a violation of this language: "or who shall give or offer to give *any valuable thing or bribe* to any elector as a consideration for some act to be done in relation to such caucus or convention."

It should be stated that by sections 39 and 40 of the election laws of Wisconsin, the criminal penalties applying to a caucus and elections are made applicable to primary elections.

If the words "To give any valuable thing" are to be given a comprehensive and literal interpretation, and to prohibit the giving or offering of "any valuable thing," "as a consideration for some act" to be done, it would not have been necessary to write into the statute the words "or bribe," because the former expression would include the latter. The purpose of the statute is evidently to prohibit *corrupt giving*.

Words of a general import in the statute are limited by words of restricted import immediately following and relating to the same subject. (36 Cyc., 1119, *Nance v. Southern R. R. Co.*, 149 N. C., 366.)

"In interpreting a statute, where the language is of doubtful meaning, the court will reject an interpretation which would make the statute harsh, oppressive, inequitable, or unduly restrictive of primary private rights." (*Nance v. Southern R. R. Co.*, 149 N. C., 366.) To the same effect, *State ex rel. v. Jackson*, 168 Indiana, 389.

Again, section 4543-C requires the filing of accounts of expenditures of a candidate. This must contemplate that there are expenditures which can not in any wise be regarded as a violation of the Wisconsin laws. If a literal interpretation is to be given to the words, "any valuable thing * * * as a consideration for some act to be done," and some expenditures be prohibited, whether morally corrupt or incorrupt, would the legislature require the candidate to convict himself by filing an account? This is a criminal statute, and it must be strictly construed against the State and in favor of the defendant when charged with its violation.

Applying these rules, therefore, it would seem that the statute prohibited the giving of any valuable thing corruptly or in the nature of a bribe.

We have no sympathy whatever with the expenditure of money in excessive amounts, whether in a senatorial or any other political campaign. That an expenditure of \$107,793.05 is an excessive amount to be spent in the candidacy for the office of United States Senator, which pays a salary for six years' service amounting to \$45,000, goes without question; that it is demoralizing and should be prevented can not be denied; that some of this money might have been spent corruptly may, for the sake of the argument, be conceded, but it is not sufficient that possible or even probable corruption or bribery exists. The evidence must show it, and this case, like all other cases, must be determined from the facts as they are disclosed in the trial and under the law as it then existed. The committee, proceeding upon the assumption that the expenditure of so large a sum of money required the fullest investigation and explanation, probed every rumor and followed every clue which was brought to its attention, with the result that no evidence was discovered which would justify the conclusion that any of this sum of money was corruptly or illegally spent.

At the time of this primary there was no statute, either State or National, limiting the amount of expenditures. There is no judicial or legislative decision, so far as we are advised, limiting the amount which may be legally expended. Can we, in the face of the fact that the Congress of the United States and the General Assembly of the State of Wisconsin prior to this election failed to limit election expenditures, now arbitrarily determine that because this sum was spent it was illegally and fraudulently expended, and therefore vacate the Senator's seat? Can it be said that the expenditure of such a sum is in contravention of a public policy which must be given the force and effect of a statute? If so, where does public policy draw the line between what shall be a legal and an illegal amount? The situation is unfortunate, but the Congress and the State Legislature are to blame for not having limited the expenses by statute. Laws can not be enforced retroactively, and surely this case must be decided in accordance with what the law *then was* and not in accordance with what the law *ought to be*. Since that election the State of Wisconsin has limited the amount of expenditure in a senatorial campaign to \$7,500 and the Federal Government has limited it to \$10,000.

EFFECT OF THE PRIMARY LAW.

It is strenuously argued on behalf of Senator Stephenson that even if the primary law of Wisconsin was violated its provisions are unconstitutional, because section 3 of Article I of the Federal Constitution provides that Senators shall be chosen by the legislature and because section 4 gives Congress the right to prescribe the time and manner of holding elections for Senators and that this power has been exercised by the Congress in the manner prescribed by sections 14 and 15 of the Revised Statutes of the United States.

The Wisconsin primary law, in substance, provides (chap. 451, Laws of 1903) as follows:

Party candidates for the office of United States Senator shall be nominated as other State officers. (Subdivision 3 of sec. 2.) Nomination papers for candidates for the office of United States Senator shall be filed in the office of the secretary of state. (Subdivision 1 of sec. 6.) The person receiving the greatest number of votes at the primary as the candidate of the party for the office voted for shall be the candidate of that party for such office (subdivision 1. sec. 18), and the secretary of state is required to publish in the official State paper a statement of the result of the canvass of the primary as soon as the same is certified to him.

These are all of the requirements found in the Wisconsin law pertaining to the nomination of party candidates for the office of United States Senators.

May the people of a sovereign State not provide for a method of expressing their sentiment in the selection of a Senator who shall represent that State in the United States Senate? May they not petition in such form and manner as to them may seem proper? And if it is their desire to so petition, may they not prescribe the method of petitioning so as to make the result of this petition, whether it be in the form of a letter to the members of the general assembly or in the form of a primary, an honest expression of their views?

The constitutionality of the above provisions of the Wisconsin law was passed upon by the supreme court of that State in the case of

State ex rel. Van Alstine v. Frear (142 Wisc., 320). On page 349 Barnes, J., in delivering the opinion of the majority of the court, says:

Our constitutions, State and National, guarantee the right of petition. Every citizen of the State has the right to petition the legislature asking that the candidate of his choice be elected United States Senator. Every citizen of a senatorial or assembly district has the right to petition his local representative to the same effect. The lawmaker is thus advised of public sentiment, a potent factor for him to consider in connection with other matters in arriving at a conclusion. Wherein does the primary nomination for United States Senator differ from the exercise of the right of petition? The legislative candidate is thereby informed of something that he has the right to know and of something that it is his duty to heed. He may not regard the verdict at the polls as obligatory, but should treat it as advisory. Moral suasion may be a perfectly legitimate agency to employ even in the election of a United States Senator. That the electors in the exercise of their guaranteed right of petition might do in substance and effect what they now do at the primaries hardly admits of controversy. The framers of the Constitution could not have supposed that there was any impropriety in the people advising their representatives of how they desired them to vote on the senatorship, else an exception would have been incorporated in the clause guaranteeing the right of petition, restricting its application to matters other than the election of United States Senators.

It will be conceded that while the result of a primary election, under the present constitutional provisions, could not control the State senators and representatives in their choice of an United States Senator, would not an expression of the will of the people at a primary election have great weight with their representatives in casting their votes? And, if this be so, ought not the primary election held to declare this choice be carefully guarded by suitable penalties? We have no hesitancy in saying that if the evidence disclosed the use of corrupt methods at the primaries, it would affect the result of the election by the general assembly, and the Senate would be justified in taking cognizance of that fact and unseating any Senator who was thus delinquent.

MONEYS GIVEN TO CANDIDATES FOR THE LEGISLATURE.

The testimony disclosed that Senator Stephenson, before the primary, gave money to C. C. Wellensgard, L. H. Bancroft, and Thomas Reynolds, who were then candidates for the legislature. They did not live in the same district or county with Mr. Stephenson. They were his personal friends. The money was given them to be used in behalf of Senator Stephenson for the nomination as the Republican candidate for Senator.

It may be said that this money was probably used by these men to further their own interests, as well as to further the interests of Mr. Stephenson. But, whether it was so used or not, there is no evidence that it was so used, or that it was given to them for that purpose.

On the contrary, the affirmative and uncontradicted testimony is all to the effect that this money was used strictly in the interest of Mr. Stephenson and none of it to further the interest of any of the legislative candidates.

MONEY PAID TO GAME WARDEN JOHN W. STONE.

Mr. Stephenson's campaign managers gave to John W. Stone, the game warden of the State, \$2,849.50 for campaign purposes. This was distributed among a number of the deputy game wardens; he

retained some portion of it himself, and in testifying before the legislative committee, falsely stated the amount he had paid out.

Section 990-28 (sec. 28, ch. 363, 1905) provides:

No officer, agent, clerk, or employee under the government of the State shall directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription, or contribution, or political service, whether voluntary or involuntary for any political purpose whatever from any officer, agent, clerk, or employee of the State.

This statute makes it an offense for any *officer, agent, clerk, or employee under the government of the State* to solicit or receive any assessment, subscription, or contribution, or political service from *any officer, agent, clerk, or employee of the State*. It is clear that this statute was not violated by Senator Stephenson, since he was not an officer, agent, clerk, or employee of the State. Moreover, the statute makes it an offense on the part of the *recipient* of the fund only. No offense is committed by the *donor*. It is true, the money should not have been paid to the game warden, and the giving of it does not show that fine discrimination which ought to be characteristic of men who are engaged in a campaign of this character. No law was violated by the donor, and this election can not be declared illegal because this expenditure was made.

FILING OF ACCOUNTS.

Section 4543-C of the revised statutes of Wisconsin requires the making out, and filing with the secretary of state, a statement in writing, subscribed and sworn to by the candidate—

setting forth in detail each item in excess of five dollars in money, or property contributed, disbursed, expended, or promised by him, and to the best of his knowledge and belief by any other person or persons for him, or in his behalf, wholly or in part in endeavoring to secure or in any way in connection with his nomination or election to such office or place, or in connection with the election of any other person at said election, *the dates when, and the persons to whom, and the purpose for which* all said sums were paid, expended, or promised by such candidate in any sum or sums whatever.

No account whatever was filed of the amount contributed by Mr. Stephenson to the State campaign committee, nor of the amount expended during the session of the general assembly. The account which was filed of the expenses incurred in connection with the primary did not comply with the law in that it lumped the expenses; gave the names of but very few of the persons to whom money was paid; did not give the dates when expended, nor as fully as contemplated by the statutes the purposes for which expended. The account as filed was approved by the general counsel of Mr. Stephenson without any examination of the statute, and simply because it conformed with certain accounts, which had been filed by prominent candidates for other offices. A careful examination of this account justifies the belief that it was purposely drawn so as to give to the public as little information as possible.

The penalty for failing to comply with this statute is a fine only, and it does not provide for the forfeiture of the office. If it did, the statute to that extent would be unconstitutional, but Mr. Stephenson, because of his failure to file a proper account, has violated the statute and is subject to a fine. However, he must be absolved from any moral delinquency, because in the preparation and filing of his ac-

count he consulted with counsel, and followed their advice, and if it was not properly done they were to blame rather than he.

In addition to this, the validity of the election which had already taken place could not be affected by the failure to thereafter perform some act enjoined by the State statute. The election was already an accomplished fact and its validity must be determined by the facts theretofore or then existing. Anything done thereafter can not be regarded as a substantive ground for invalidating the election. Its only evidential value would be in reflecting light upon or as giving color to the preexisting facts.

After a careful consideration of all the evidence and the law, we had no hesitancy in joining in the report presented by the subcommittee.

We heartily approve these words of Senator Heyburn:

The amount of money spent by Mr. Stephenson, Mr. Cook, Mr. Hatton, and Mr. McGovern in the primary campaign was so extravagant, and the expenditures made by and on behalf of these gentlemen were made with such reckless disregard of propriety, as to justify the sharpest criticism. Such expenditures were in violation of the fundamental principles underlying our system of Government, which contemplated the selection of candidates by the electors and not the selection of the electors by the candidate.

Regardless of any statute requiring that strict accounts be kept of money expended by and on behalf of candidates, a candidate and every man representing him should know that public opinion would expect the parties to place and maintain themselves in a position so that if any of their acts were questioned they could justify such acts to the extent of giving every detail in regard thereto.

While I do not believe that the law of Wisconsin could constitute any man a candidate or place him in the position of and under the responsibilities of a candidate for an office over which the State had no control and which was not to be filled under any law of the State, yet I feel impelled to criticize the acts of those in charge of the expenditure of money of men who are called candidates for the Senate, and especially of Mr. Stephenson, in the irresponsible and reckless manner in which they disbursed the money furnished them by Mr. Stephenson during the period of the primary campaign.

The failure to keep detailed accounts, the destruction of memoranda, the shifting of records and papers concerning the campaign from one place to another, the adoption of mysterious methods and roundabout ways in regard to matters that might just as well have been performed in open daylight in the presence of people, would go far toward creating the impression that there was some occasion for Mr. Stephenson's representatives to avoid candor and to obscure conditions.

While we have no doubt as to the correctness of the subcommittee's finding, we do not want it to be understood that we question the propriety of filing charges challenging the validity of the election or of the making demand for an investigation either by the General Assembly of Wisconsin or by the United States Senate.

An enormous sum of money had been expended. Messrs. Edmunds and Sacket, who were in charge of the campaign as Mr. Stephenson's managers, knew of the statute requiring the filing of an account of their expenditures. They destroyed all original records of accounts, though they kept what purported to be copies. They grouped these items and amounts in such a way that they gave no knowledge whatever to the public except the totals of each class of expenditures. The account was not filed until the last moment permitted by the statute.

Mr. Puelicher, a banker, acted as treasurer. He did not open an account as depositors usually do. He received remittances, kept private memoranda, paid out cash, and made disbursements of these

funds, but kept no record thereof upon the bank's books. No other customer's funds, either before or since, were received or disbursed in a similar way. There was an air of mystery about the entire affair.

After the investigation by the committee of the general assembly was started Mr. Stephenson's local counsel had such records and correspondence as had not already been destroyed moved out of the State for the purpose of keeping them beyond the jurisdiction of the general assembly.

It may be said in passing, however, that the accounts were kept on card indexes, and Mr. Sacket gives as a reason for destroying them that they were made with lead pencil in many cases, and the writing was practically obliterated, so that he made copies and then destroyed the originals (Record, p. 161) because they were cumbersome and inconvenient (p. 523). And it may be further said that there seems to have been no substantial reason for moving the correspondence out of the State. It was all before the committee, and an examination failed to disclose anything of an inculpatory or improper character which would render any concealment necessary.

Can there be any wonder that the public became suspicious and the members of the general assembly, out of a decent sense of self-respect, should demand a thorough investigation?

If Mr. Stephenson has been put to great expense and trouble, it is due, first, to the reckless expenditure of this large sum of money, and, second, to the studied and mysterious efforts of his managers and local attorneys to conceal the facts, up to and during the investigation before the joint committee of the general assembly, and the separate committee of the State senate.

But out of all this scandal and trouble much good has come. Public sentiment was aroused. The unlimited use of money has been condemned, and stringent corrupt-practices acts have been adopted, both by the General Assembly of the State of Wisconsin and by the Congress of the United States.

ATLEE POMERENE,
GEO. SUTHERLAND.



CHARGES RELATIVE TO THE ELECTION OF ISAAC
STEPHENSON.

FEBRUARY 19, 1912.—Ordered to be printed.

Mr. Jones (for himself, Mr. Clapp, Mr. Kenyon, Mr. Kern, and Mr. Lea), from the Committee on Privileges and Elections, submitted the following

VIEWS OF THE MINORITY.

[To accompany S. Res. 136.]

In the primary election at which Mr. Stephenson was nominated for Senator pursuant to the Wisconsin law, the candidates expended the following sums:

Neal Brown	\$1, 075. 87
Francis E. McGovern	11, 063. 88
William H. Hatton	26, 413. 00
S. A. Cook	42, 293. 29
Senator Stephenson	107, 793. 05

In all, about \$225,000 on the part of candidates for the Senate alone.

Referring to these expenditures, the majority report says:

The amount of money expended by Mr. Stephenson, Mr. Cook, Mr. Hatton, and Mr. McGovern in the primary campaign was so extravagant and the expenditures made by and on behalf of these gentlemen were made with such reckless disregard of propriety as to justify the sharpest criticism. Such expenditures were in violation of the fundamental principles underlying our system of Government, which contemplated the selection of candidates by the electors and not the selection of electors by the candidate.

We concur in this statement, and it justifies us in opposing the conclusion of the majority. How a seat in the Senate can be secured "in violation of the fundamental principles underlying our system of government," with the evidence showing the use of such a large sum of money, and not be tainted by corrupt methods and practices we are unable to comprehend. The question now squarely before the Senate is whether or not methods and practices "in violation of the fundamental principles underlying our system of government" shall be denounced by our words and approved by our votes.

The majority report also says:

Were a candidate for a State office in Wisconsin to conduct a campaign in the manner in which the campaign of Mr. Stephenson and of other men who sought election to the United States Senate were conducted, it would be very difficult to justify such conduct under the laws of the State.

This statement we indorse. It warrants our opposition to the conclusion of the majority. If it would be difficult to justify a campaign like this by a candidate for a State office why is it not equally difficult to justify it on the part of Senator Stephenson? He was not compelled to go into the primary. He elected to do so, and he should be held to the same degree of accountability as any other candidate in that primary.

If he used methods—and the majority says he did—that it would be difficult to justify in behalf of a State candidate, then it is equally difficult for the Senate to justify such conduct on the part of a candidate for a seat in this body and preserve its integrity and honor. In our judgment it can not do it.

ADMITTED FACTS.

The following may be taken as admitted facts in this case: Three men were selected as managers by Senator Stephenson; money was placed in their hands from time to time as called for to the amount of over \$107,000; they were not asked how they expended it, nor for what purpose; no accounting was requested; they paid it out in various sums to different individuals in different wards, precincts, and counties; large sums were paid to different individuals holding official positions, and to individuals recognized to be leaders, and to others of prominence in different organizations; no directions were given to these men how the money should be expended; no reports were required and no knowledge obtained as to how they spent the money or for what purpose; men were hired for the ostensible purpose of going over the country talking Stephenson and creating Stephenson sentiment; men, whose occupations led them into different sections of the country, were paid large sums of money for talking for Stephenson on their travels; men were paid three, five, and ten dollars per day to be at the polls on election day, or to haul voters to the polls; large sums were paid leaders in different wards and precincts to look after their wards and precincts; hundreds of dollars were spent for treating to cigars, liquors, meals, etc., as much as \$135 in one day by one man; money was paid to candidates for the legislature, at least three of whom were nominated and elected; detailed expenditures were not kept; memoranda were destroyed; records and papers concerning the campaign were shifted from one place to another; mysterious methods and round-about ways were employed; original records were destroyed; items and amounts were grouped in such a way as to give no knowledge to the public except the amount of each class of expenditures; a banker acted as treasurer; no account was opened as is usually done by depositors; remittances were received, private memoranda kept, cash disbursements of funds made, but no record was kept on the bank's books, and when the committee of the general assembly started to investigate local counsel for Mr. Stephenson had such records and correspondence as had not already been destroyed moved out of the State, for the purpose of keeping them beyond the jurisdiction of the general assembly.

All this is admitted, and we feel that we have a right to assume from these admitted facts and actions that corrupt methods and practices were used in connection with said primary election. To hold

otherwise is to establish a precedent that would authorize an expenditure of hundreds of thousands of dollars to debauch the electorate in order to secure a seat in this body. To do this is to notify the world that we are careless as to whether or not seats in this body are to be bought and sold as so much merchandise to the man with the largest purse. To do so is to say to the man of millions eager for place, power, and honor, "Spend as much of your millions as you please to secure a seat here and no question will be made if you claim it was expended within the law." As was said by Senator Hoar and Senator Frye, in regard to the facts before them in the Payne case, "No more fatal blow can be struck at the Senate or at the purity and permanence of the republican Government itself than the establishment of this precedent."

The expenditure of such a sum of money at a primary election on behalf of one candidate in itself shocks the judgment and conscience of honest men generally, and disbursed as disclosed by the record in this case is conclusive proof of corrupt methods and practices.

THE PRIMARY.

The power to inquire into the practices and methods employed in the primary election is questioned. The majority in this case find that we have this power, and with that conclusion we agree. In this we are fully sustained by principle and precedent, and by the terms of the resolution under which the committee acted, which authorized and directed the committee "to investigate certain charges preferred by the Legislature of Wisconsin against Isaac Stephenson, a Senator of the United States from the State of Wisconsin, and report to the Senate whether in the election of said Isaac Stephenson as a Senator of the United States from the said State of Wisconsin there were used corrupt methods and practices." The charges preferred by the Legislature of Wisconsin affected not only the election by the legislature itself, but also the primary election.

It appears by the record that several candidates for the legislature announced during their candidacy that, if elected, they would vote for the candidate for Senator receiving the highest vote at the primary. If the primary choice was secured by corrupt methods and practices, would not the vote in the legislature secured thereby be corrupt, however innocent the member casting it? Several members of the legislature announced when they voted for Stephenson that they did so solely because he was the primary choice. If the primary was carried by corrupt methods and practices, these votes were corrupt, though honestly cast, and if the Senate can not inquire into such corrupt methods and practices, then the power given to us to judge of elections of our Members is a mere shadow. That we have this power is in accord not only with reason and justice, but is sustained by precedent.

The case of Mr. Caldwell, found at page 429, Senate Election Cases, is in point. In this case an arrangement was made by Mr. Caldwell with Thomas Carney under which Mr. Carney agreed not to be a candidate for United States Senator before the Legislature of Kansas and should give his influence and support for Mr. Caldwell. Mr. Caldwell was to pay him \$15,000. Mr. Carney was not a candidate before the legislature and did use his influence to secure the

election of Mr. Caldwell. Was such an arrangement corrupt? The committee said:

It was an attempt to buy the votes of the members of the legislature, not by bribing them directly, but through the manipulations of another. The purchase money was not to go to them, but to Mr. Carney, who was to sell and deliver them without their knowledge. That Mr. Caldwell did procure the votes of members of the legislature, friends of Mr. Carney, ignorant of the fact that Mr. Carney was making merchandise of his political character and influence and of their friendship for him, for which he was to receive a large sum of money, the evidence leaves no reasonable doubt.

Buying off opposing candidates, and in that way securing the votes of all or the most of their friends, is in effect buying the office. It recognizes candidacy for office as a merchantable commodity—a thing having a money value—and is as destructive to the purity and freedom of elections as the direct bribery of members of the legislature.

When candidates for the legislature announce that they will vote for the choice of the primary for Senator, then to buy or corrupt the primary is to buy the member of the legislature; and if it was corrupt to buy off a candidate for the Senate and thereby secure the votes of his friends it is also corrupt to buy the primary and thereby secure the votes of those who announce that they will be controlled by the primary; and if the Senate can go outside of the proceedings of the legislature and investigate corruption in preventing men from being candidates for the Senate before the legislature, then it can certainly investigate methods and proceedings in the primary.

In the Payne case (Senate Election Cases, p. 711) three of the committee of seven say:

We, in our conclusion, made no distinction between the use of fraud, corruption, or bribery in a caucus vote or in the legislative vote for a Senator. Although a caucus, or what proceeds in it, has no constitutional or legal relation to the election of a Senator, yet, by the habit of political parties, the stage of determination as to who is to be elected Senator, and the influences, proper or improper, that produce that determination, is that which precedes and is concluded in the caucus. So far as the question of personal delinquency or turpitude is concerned, no moral distinction should be made between corrupt proceedings in caucus and those in the legislature. How far any such distinction would need to be insisted upon in any case, on the question of unseating a Senator, where he himself was not affected with any personal misconduct or complicity with the misconduct of others, we have no occasion, in the immediate case or attitude of the subject, to consider or suggest.

Senators Hoar and Frye, in the same case, in their minority views at page 715, say:

If B, C, and D have promised to vote as A shall vote, if A be corrupted, four votes are gained by the process, although B, C, and D be innocent. In looking, therefore, to see whether an election by the legislature was procured or effected by bribery, it may be very important to discover whether that bribery procured the nomination of a caucus whose action a majority of the legislature were bound in honor to support.

JOHN W. STONE.

John W. Stone was State game warden and had many deputies acting under him. Their position gave them an influence they would not have as individuals, and their duties required them to travel over the State. It was desirable to have their active support. Senator Stephenson personally directed that \$2,500 be turned over to Stone. This was done without any specific directions as to its use, and the money was distributed over the State where and in the manner that it was thought would do the most good. While this

action may not be a direct violation of the letter of any State law, in our judgment it was a corrupt practice.

EXTRACTS FROM TESTIMONY.

We submit the following extracts from the testimony as illustrative of the methods and practices pursued in the distribution of this large sum of money for campaign purposes:

PRIMARY—STEPHENSON WOULD FIX NO LIMIT, BUT SAID GO ON AND CONDUCT THE CAMPAIGN, ETC.

Mr. EDMONDS. In my talk with Senator Stephenson I wanted to learn from him the amount of money he expected to expend. He seemed to think that too much money was being expended. I endeavored to have him fix an amount so that we would not exceed it. This he declined to do, and I endeavored to show him the difficulty of conducting a campaign without knowing how much I might be allowed to expend; but I was not able to get him to state, and he said to go on and conduct the campaign—"use your best ability in conducting it," and left it in that way.

SENATOR STEPHENSON.

Senator POMERENE. Did they advise you from time to time as to how they were expending this money?

Senator STEPHENSON. Not as a rule; no, sir.

Senator POMERENE. Did you ask for any report from them from time to time as to how they were expending this money?

Senator STEPHENSON. No, sir. I had confidence in Mr. Edmonds and Mr. Puelicher and my bankers, and I have yet.

Senator POMERENE. Referring to this letter of August 4, it was made known to you that to carry out Mr. Edmonds's plan he needed more money?

Senator STEPHENSON. Yes, sir.

Senator POMERENE. Did you at that time take up with him the matter as to the amount which you felt disposed to put into the campaign?

Senator STEPHENSON. I can not say as to that. We telephoned some. I think I was in the headquarters only twice, and not to exceed an hour altogether during the entire campaign. I was not in Milwaukee but about three times.

Senator POMERENE. In other words, we are to understand, then, that you left the entire management of this campaign to your campaign managers, and about all you did was to furnish the sinews of war?

Senator STEPHENSON. Yes.

TWO THOUSAND FIVE HUNDRED DOLLARS PAID TO STONE, GAME WARDEN.

The CHAIRMAN. We will pass that. Now, we come to another item, "Cash to J. W. Stone, \$2,500." Who was Mr. Stone?

Mr. EDMONDS. Mr. Stone was game warden of Wisconsin.

The CHAIRMAN. Did you know him personally before the payment of this \$2,500?

Mr. EDMONDS. Yes; I had met him.

The CHAIRMAN. Or at the time?

Mr. EDMONDS. I had met him.

The CHAIRMAN. You paid him the money, did you not, in cash?

Mr. EDMONDS. Through my instructions.

The CHAIRMAN. Did you not pay it to him in cash yourself?

Mr. EDMONDS. No.

The CHAIRMAN. Who did?

Mr. EDMONDS. Mr. Sacket says he did.

The CHAIRMAN. Mr. Sacket paid it in cash. Where did he get the cash? Did you give it to him?

Mr. EDMONDS. No; I did not have the cash.

The CHAIRMAN. Mr. Sacket had no cash in the campaign, did he?

Mr. EDMONDS. Mr. Sacket could get the cashier's check from the bank.

The CHAIRMAN. He had to get it from you, or on your credit?

Mr. EDMONDS. Sure; I told them to give it to him.

The CHAIRMAN. Then you did tell him to get it?

Mr. EDMONDS. Certainly.

The CHAIRMAN. Let us see if we can get at a candid statement of the occasion of the payment of this \$2,500 to the State game warden. You know all about it, do you not?

Mr. EDMONDS. About his getting the money.

The CHAIRMAN. You know all the details of that game warden proposition, do you not?

Mr. EDMONDS. Yes.

The CHAIRMAN. The matter has been investigated in such a way as to fix it in your mind, has it not?

Mr. EDMONDS. It was not necessary, because I remembered the details.

The CHAIRMAN. Remembered it all?

Mr. EDMONDS. No, sir; there were some things I did not remember, but some details I remember.

The CHAIRMAN. I would hardly expect to receive a reply if you do not know in regard to Mr. Stone.

Mr. EDMONDS. Yes, sir.

The CHAIRMAN. For what purpose was \$2,500 paid to Mr. Stone?

Mr. EDMONDS. For the purpose of getting his assistance in helping to nominate Senator Stephenson.

The CHAIRMAN. What kind of assistance?

Mr. EDMONDS. Such kind as he could give, in his best judgment.

STONE MONEY PAID UNDER AGREEMENT WITH STEPHENSON.

Senator SUTHERLAND. When was it you gave Mr. Stone the \$2,500, before or after this conversation?

Mr. EDMONDS. After.

Senator SUTHERLAND. After?

Mr. EDMONDS. That is, I think the same day, as I recall.

Senator SUTHERLAND. How did you fix the amount of \$2,500?

Mr. EDMONDS. My recollection is that either Senator Stephenson informed me or else Mr. Stone informed me that that was the amount to be paid him.

Senator SUTHERLAND. Which was it?

Mr. EDMONDS. I can not recall now.

Senator SUTHERLAND. Did you make the arrangement or did Mr. Stephenson make it?

Mr. EDMONDS. My present recollection is that Mr. Stephenson made the agreement with Mr. Stone; Mr. Stone had seen him.

Senator SUTHERLAND. For the \$2,500?

Mr. EDMONDS. But as to just how far that went, I am not positive now. I do not want to do Mr. Stephenson an injustice by saying that he made it if Mr. Stone reported that that was the amount agreed upon when we talked.

Senator SUTHERLAND. Then I understand you to say that you do not know why it was \$2,500 rather than some other sum?

Mr. EDMONDS. Except that that was the amount that Mr. Stone thought was advisable to put in his hands; that he could use to advantage or because of the information received from Senator Stephenson; which I am not sure.

Senator SUTHERLAND. Did you not exercise any judgment yourself as to what amount should be paid?

Mr. EDMONDS. In that particular case; no, sir.

PRIMARY—MONEY TO MEMBERS OF THE LEGISLATURE—GAME WARDEN STONE—STEPHENSON TOLD.

The CHAIRMAN. What were the instructions, and what was the transaction?

Mr. EDMONDS. I think Senator Stephenson telephoned me or sent word through Mr. Stone to give him \$2,500.

The CHAIRMAN. To give you \$2,500?

Mr. EDMONDS. To give him \$2,500.

The CHAIRMAN. To give Stone \$2,500?

Mr. EDMONDS. Yes, sir.

The CHAIRMAN. For what did you give it to him?

Mr. EDMONDS. I did not give it to him.

The CHAIRMAN. You did not?

Mr. EDMONDS. No.

The CHAIRMAN. Where did Mr. Stone get the \$2,500?

Mr. EDMONDS. I assume from the bank—a cashier's check.

The CHAIRMAN. Did you give him an order?

Mr. EDMONDS. That is my recollection, though I am not positive.

The CHAIRMAN. That you gave him an order on the bank?

Mr. EDMONDS. I think so. That may have been one of the \$5,000 items. I have not seen my check book for two years.

GAME WARDEN STONE GOT \$2,500 BY DIRECTION OF STEPHENSON; WAS TO USE AT OWN ELECTION.

The CHAIRMAN. Was it to be expended by you, or were you authorized to pay it out to others, to be expended by them?

Mr. STONE. I was to use it at my own discretion.

The CHAIRMAN. Were you at liberty, then, as you understood the transaction, to handle all that money yourself?

Mr. STONE. Yes, sir.

The CHAIRMAN. According to your discretion?

Mr. STONE. Yes.

The CHAIRMAN. No limitations were placed upon you, whatever, as to the manner of expenditure, were they?

Mr. STONE. No; I think not.

MANAGER EDMONDS'S DESCRIPTION OF "ORGANIZATION" METHODS.

The CHAIRMAN. Now, what do you mean by "organize" when you use the term in connection with the payment of this money?

Mr. EDMONDS. I mean that the man employed by me to look after Dane County and get out the vote—the largest possible vote—for Senator Stephenson was given latitude, usually guided by his judgment alone, as to what was to be done (p. 77).

The CHAIRMAN. Particularize the word "organize" and tell me what constituted organization.

Mr. EDMONDS. My idea in a county that was thoroughly organized would be in the first place to get out the advertising that we sent to the county—have it fully distributed and posted, and after that was done he was to put in his full time going around the county, and he was paid for his services going around the county and interesting men of influence in the different localities to interest their friends so as to get out a full vote for Senator Stephenson election day. In some instances still further organizing, if in their judgment that was wise, by getting out the vote, by hiring teams, etc., for getting men to the polls (p. 78).

PURPOSE FOR WHICH MONEY WAS PAID.

The CHAIRMAN. The second charge is as follows:

"That said Isaac Stephenson did, prior to said primary, pay to said Edmonds, above mentioned, sums with the design that said Edmonds should pay to other electors of this State, out of said sums above mentioned and other sums of money received by said Edmonds from said Isaac Stephenson, prior to said primary, sums ranging from \$5 per day to \$1,000, in bulk, as a consideration for some act to be done in relation to said primary by said electors for said Isaac Stephenson as such candidate, in violation of said section."

Is that statement true?

Mr. EDMONDS. No, sir.

The CHAIRMAN. Wherein is it not true?

Mr. EDMONDS. It is a pretty long statement. One of the things that appeals to me as not being true is that neither of those sums is in violation of the law.

The CHAIRMAN. Then we will waive that last statement, "in violation of said section." Did he give you those sums, or any of them, to pay to other electors of the State?

Mr. EDMONDS. To other electors of the State?

The CHAIRMAN. Yes.

Mr. EDMONDS. Yes; I should say that he understood that in his payment of the money.

The CHAIRMAN. Then the statement of facts, aside from the final clause, "in violation of said section," is substantially correct, is it?

Mr. EDMONDS. There are a good many items in there enumerated, but I should say it is substantially correct.

Senator SUTHERLAND. You have had charge of large expenditures of money, have you, in a business way?

Mr. EDMONDS. Quite large; yes, sir.

Senator SUTHERLAND. You have employed many agents whose duty it was to expend money?

Mr. EDMONDS. In some instances; yes, sir. Usually, however, in the management of a business, the work is done from the office, and the management of such business as I conducted was done by me, in the expenditure of money.

Senator SUTHERLAND. Is it in accordance with your business training and experience and habits to hand over to your agent a large sum of money, \$500 or \$1,000, and have him expend it without keeping an account of what he expends it for, or without having him render an account to you of the expenditures?

Mr. EDMONDS. I do not think so.

Senator SUTHERLAND. That is not in accordance with business methods, at any rate?

Mr. EDMONDS. No, sir.

Senator SUTHERLAND. Was there any reason why you could not request these various political agents to keep an account of their expenditures?

Mr. EDMONDS. The only reason I could give is that I have never heard of it being done. Custom, I should say, governed that.

NO MEMORANDA AS TO MONEY PAID.

Mr. EDMONDS. I do not know.

The CHAIRMAN. Who should know, under the system that obtained in the headquarters?

Mr. EDMONDS. Mr. Sacket should know.

The CHAIRMAN. Did you make any memoranda when you gave instructions for the payment of money to these various people, or any of them, as to the services they were to perform in consideration of receiving this money?

Mr. EDMONDS. No, sir; no written statement; no, sir.

The CHAIRMAN. You say you did not?

Mr. EDMONDS. No written statement; no, sir.

The CHAIRMAN. Did you make any memoranda at any time in regard to the purposes for which the money you ordered paid was to be used?

Mr. EDMONDS. I do not recall any.

The CHAIRMAN. Endeavor to recall it now, Mr. Edmonds.

Mr. EDMONDS. Yes, sir; I will.

The CHAIRMAN. Can you recall any instance in which you made a memorandum as to the purpose for which the money was paid, either by you or under your instructions, during this campaign?

Mr. EDMONDS. I can not recall any instance; no, sir.

The CHAIRMAN. You have no books of account in which such items will appear?

Mr. EDMONDS. Absolutely not.

The CHAIRMAN. You made no record either in a book or otherwise as to the purpose for which you paid or directed that money to be paid during the campaign?

Mr. EDMONDS. To the very best of my recollection, none.

The CHAIRMAN. Why did you not?

Mr. EDMONDS. I did not feel it was necessary.

The CHAIRMAN. Were you acquainted with the provisions of the statutes of the State of Wisconsin with reference to the filing of an expense account by those who were candidates for nomination or election?

Mr. EDMONDS. Yes; I think so; reasonably well.

The CHAIRMAN. Are we to understand that with that knowledge you did not make any attempt to lay the foundation for compliance with that law in the expenditure or payment of the large sums of money that you disbursed during the campaign?

Mr. EDMONDS. I did not, because it was done by another person in the office.

The CHAIRMAN. Who?

Mr. EDMONDS. Mr. Sacket.

The CHAIRMAN. Suppose it transpired that it was not done by Mr. Sacket, then did Mr. Sacket disobey any instructions which you had given?

Mr. EDMONDS. No, sir; Mr. Sacket had his instructions from others before I came and took charge.

The CHAIRMAN. You were the manager of the campaign, were you not? That was the term used as to yourself?

Mr. EDMONDS. That is the term that has been given me; yes, sir.

The CHAIRMAN. It was the designation at that time, was it not?

Mr. EDMONDS. I think so.

The CHAIRMAN. How did you regard yourself in that respect?

Mr. EDMONDS. I think I regarded myself as manager of the campaign.

The CHAIRMAN. And so regarding yourself, you made no attempt to lay the foundation for making a statement that would comply with the law in the event it became necessary to file an expense account?

Mr. EDMONDS. No, sir. Owing to the conditions that existed when I went there, I felt that that was being done and so continued during my service.

\$100 SENT TO A NEWSPAPER MAN AT WAUSAU.

The CHAIRMAN. I will so mark it. The next item is \$100 to J. L. Sturtevant. That is said to be for "advertising." What advertising was that?

Mr. EDMONDS. He is running a daily and weekly newspaper, I believe, at Wausau.

The CHAIRMAN. Who made that contract?

Mr. EDMONDS. I believe I sent him the money.

The CHAIRMAN. Have you a bill and receipt for it?

Mr. EDMONDS. No, sir.

The CHAIRMAN. Any acknowledgment of it?

Mr. EDMONDS. No, sir.

The CHAIRMAN. What advertising was that for?

Mr. EDMONDS. I do not know why the word "advertising" is in there except that that is Mr. Sacket's method of designating certain of these matters to keep them in a certain account.

The CHAIRMAN. But you know about the payment of the money?

Mr. EDMONDS. Yes; I paid the money.

The CHAIRMAN. You inquired what it was for when you authorized it, did you not?

Mr. EDMONDS. No. I had known Mr. Sturtevant for some little time, and, believing that he could be of assistance to us in Wausau—I knew that he was a friend of Senator Stephenson—I sent him a hundred dollars to use as he saw fit in promoting the interests of the Senator.

The CHAIRMAN. That was what might be termed a general contribution to the newspaper, was it; for its friendship?

Mr. EDMONDS. Perhaps it might be called that.

The CHAIRMAN. There was no specific advertisement—no space charged for—was there?

Mr. EDMONDS. In this particular instance, I do not know.

The CHAIRMAN. No bill was rendered for specific services as "advertising"?

Mr. EDMONDS. I do not recall, in this instance. I sent him the money, asking him to use it in the interest of Senator Stephenson.

The CHAIRMAN. You sent him the money for the purpose of retaining a friendly attitude toward Senator Stephenson, did you not?

Mr. EDMONDS. I did not need to do that, because he was very friendly; his paper was for him and had been all the time.

The CHAIRMAN. Then it was a gratuity. You already had the services, and in acknowledgment of friendship you sent him a hundred dollars; does that express it?

Mr. EDMONDS. No; I hardly think that expresses it.

The CHAIRMAN. Then what was the hundred dollars for?

Mr. EDMONDS. I thought that with the hundred dollars he would be more active in his support of Senator Stephenson.

The CHAIRMAN. Then it was for additional friendship to that already existing, was it?

Mr. EDMONDS. Perhaps that statement would be true.

The CHAIRMAN. It was to cement the existing friendship?

Mr. EDMONDS. Most assuredly; it was to help Senator Stephenson.

The CHAIRMAN. Was it in order that he might not probably be influenced to change his attitude of friendship?

Mr. EDMONDS. No; that was not at all necessary with him.

The CHAIRMAN. Very well. You sent just that class of contributions to a number of papers, I suppose, did you not?

Mr. EDMONDS. I think there were a number of instances; yes, sir.

WISE MANAGERS DID NOT KNOW, AND DID NOT ATTEMPT TO FIND OUT, WHETHER THIS MONEY WAS SPENT HONESTLY OR NOT.

The CHAIRMAN. And that you have made no effort to ascertain whether or not the expenditures of this money were wrongful?

Mr. EDMONDS. No, sir.

The CHAIRMAN. In any case?

Mr. EDMONDS. I have not.

THE EXTENT AND MANNER OF DISTRIBUTION.

The CHAIRMAN. You had 70 men, I understand, in your organization industriously engaged in distributing money among the common people throughout the campaign?

Mr. EDMONDS. I should say there were probably that many.

MANAGER SACKET'S DESCRIPTION OF "ORGANIZATION METHODS." (P. 175.)

The CHAIRMAN. I notice that all of these items for organizing—and the greater part of them are for organizing—are after the time when you had filed the petitions with the signatures on them.

Mr. SACKET. My idea of organizing, as I used it in this statement, might include circulating of petitions, or any other work to perfect that organization which we hoped to use for the election of Senator Stephenson.

The CHAIRMAN. Would it include the distribution and payment of money to men who were to work at the polls?

Mr. SACKET. Yes, sir.

The CHAIRMAN. Would it include the payment of money to men who were to induce other men to vote for Senator Stephenson, without any limitation being placed upon the manner of inducement?

Mr. SACKET. It would include money expended that way; yes, sir.

The CHAIRMAN. It might include money expended in purchasing votes, might it?

Mr. SACKET. It might.

The CHAIRMAN. Did it?

Mr. SACKET. Not to my knowledge.

The CHAIRMAN. Can you say it did not?

Mr. SACKET. No, sir; not to my knowledge.

METHOD BY WHICH SACKET SPENT MONEY.

(167) Mr. SACKET. I do not know.

The CHAIRMAN. What services did he perform?

Mr. SACKET. I do not know.

Mr. LITTLEFIELD. Was he one of the men you made an arrangement with?

Mr. SACKET. He was not.

The CHAIRMAN. Did you pay that on the order of Mr. Edmonds?

Mr. SACKET. I did.

The CHAIRMAN. Did you pay money on the order of any person other than Mr. Edmonds?

Mr. SACKET. Not to my recollection.

The CHAIRMAN. When Mr. Edmonds gave you an order, such as is indicated by that payment, did he give it to you in writing?

Mr. SACKET. Not necessarily.

The CHAIRMAN. How did he give it to you?

Mr. SACKET. He told me that he wanted a check for \$300 for Mr. R. E. Orton.

The CHAIRMAN. Was it a verbal communication?

Mr. SACKET. Yes, sir.

The CHAIRMAN. Then you would get the check?

Mr. SACKET. Yes, sir.

The CHAIRMAN. And would you make a memorandum?

Mr. SACKET. I would.

The CHAIRMAN. Did you inquire of Edmonds what the money was to be used for?

Mr. SACKET. Not in all cases.

The CHAIRMAN. Did you in this case?

Mr. SACKET. I do not remember.

The CHAIRMAN. You have no recollection about it?

Mr. SACKET. No, sir.

The CHAIRMAN. You do not know whether it was to be used for purchasing votes or for what purposes?

Mr. SACKET. I had no knowledge of my own whatever.

The CHAIRMAN. Did you not feel it incumbent upon you to know for what the money that you paid out was to be used?

Mr. SACKET. The money that I paid out on Mr. Edmonds's order; no.

The CHAIRMAN. You think you would be relieved of responsibility if the money was to be paid out for an unlawful purpose merely because Mr. Edmonds told you to pay it?

Mr. SACKET. Yes, sir.

The CHAIRMAN. You think you would be relieved?

Mr. SACKET. Yes, sir.

The CHAIRMAN. You would not undertake to assert that if an associate were to ask you to violate the law you would be justified in doing it?

Mr. SACKET. No, sir.

The CHAIRMAN. Then how do you account for your answer that if you believed if Mr. Edmonds told you to pay this money out for an unlawful purpose that Mr. Edmonds and not you would be responsible?

Mr. SACKET. I felt that when Mr. Edmonds asked for money I was under obligations to give it to him. I was Mr. Stephenson's manager.

DESTRUCTION OF MEMORANDA.

Manager Sacket, in testifying as to the payment of an item of \$400, stated that he was unable to remember anything about it. He then testified as follows (p. 164):

The CHAIRMAN. That emphasizes the misfortune of the destruction of your memoranda, does it not? Now, you say, in the absence of that memorandum, you can not remember anything about the \$400. It may have been used to purchase votes in violation of law, may it not?

Mr. SACKET. I have no knowledge one way or the other.

The CHAIRMAN. So that a payment of this money passing through your hands as the representative of the candidate may have been used, so far as you can state, for an illegal purpose?

Mr. SACKET. I do not know.

PERRIN'S EXPENDITURES.

The CHAIRMAN. Who is C. R. Fridley?

Mr. PERRIN. He is an attorney at Superior.

The CHAIRMAN. Is he an old resident?

Mr. PERRIN. Yes.

The CHAIRMAN. Is he an old man or a young man?

Mr. PERRIN. He is a man of 42 or 43 years of age.

The CHAIRMAN. Did he support Senator Stephenson for nomination at the primaries and before the primaries?

Mr. PERRIN. Yes.

The CHAIRMAN. Was he in public life in any capacity?

Mr. PERRIN. No.

The CHAIRMAN. He was what you call a political worker, was he?

Mr. PERRIN. No. He was a practicing lawyer.

The CHAIRMAN. He was actively engaged in the practice of law?

Mr. PERRIN. Yes, sir.

The CHAIRMAN. You never asked him for any accounting as to the expense he had incurred?

Mr. PERRIN. I did not.

The CHAIRMAN. What is Mr. Fridley's business, you say?

Mr. PERRIN. He is an attorney.

The CHAIRMAN. The next item is \$10 to H. L. Dresser. Who is H. L. Dresser?

Mr. PERRIN. Mr. Dresser had nothing to do with the campaign, and does not live in the State. I was in Duluth and somebody made application to me for money, and I had to go to him and borrow it, and gave him my check to reimburse him. It was money expended in the campaign.

The CHAIRMAN. He lived in Duluth?

Mr. PERRIN. He lived in Duluth when this application was made to me.

The CHAIRMAN. You drew this money for your own expenditure, or to be paid out by you?

Mr. PERRIN. I drew that money to be paid to some one in the Stephenson campaign.

The CHAIRMAN. Can you say to whom you paid it?

Mr. PERRIN. I can not.

The CHAIRMAN. We go to the next item of \$50 cash. Can you account for any part of it?

Mr. PERRIN. I have no recollection of it.

The CHAIRMAN. The last item I inquired about, of \$10 to Dresser, was on the 18th of August.

Mr. PERRIN. Yes, sir.

The CHAIRMAN. And another item the same day, the 18th, is \$50 cash. You say you can not account for that?

Mr. PERRIN. No.

The CHAIRMAN. At that time you had received the \$3,000. You received it on the 15th. So you had all of this \$5,000 then available?

Mr. PERRIN. Yes, sir.

The CHAIRMAN. And on the 19th you drew a check to W. W. Savage for \$25, and he indorsed it. What was that for?

Mr. PERRIN. I am not sure about that. I sent him out two or three times, I do not remember when, to get information to enable us to carry on this work.

The CHAIRMAN. He was your clerk?

Mr. PERRIN. Yes.

The CHAIRMAN. On the 21st you paid out \$200 cash. Can you account for any part of that?

Mr. PERRIN. I have no recollection of it.

The CHAIRMAN. On the same day you paid out \$100 cash. Can you account for any part of that?

Mr. PERRIN. I have no distinct recollection.

The CHAIRMAN. Again on the same day, \$40 cash. Can you account for that or any part of it?

Mr. PERRIN. I do not recollect that.

The CHAIRMAN. Was it money expended in the city of Superior?

Mr. PERRIN. This money was expended in four counties—Douglas, Bayfield, Sawyer, and Washburn.

The CHAIRMAN. Are they the northern counties in the State?

Mr. PERRIN. Yes.

The CHAIRMAN. The most northern?

Mr. PERRIN. Yes.

The CHAIRMAN. Tell us the conversation—what he said to you and what you said to him that resulted in the handing over of that check.

Mr. PERRIN. I can not remember the details.

The CHAIRMAN. Give us the substance.

Mr. PERRIN. The substance of it was that I went to him and asked him if he would put in some time in the Stephenson campaign. He said he would do what he could. I asked him how much money he thought he would need at that time, and he said that he ought to have \$250.

The CHAIRMAN. Did you tell him that you were disbursing Stephenson money at that time? You told him you had received this thousand dollars, did you?

Mr. PERRIN. Yes.

The CHAIRMAN. And he told you he could be of some use to Senator Stephenson, did he?

Mr. PERRIN. Yes.

The CHAIRMAN. How did he tell you he could be of use to Senator Stephenson?

Mr. PERRIN. I guess I knew as much about that as he did. I do not know that he expressed himself in specific terms as to what he could do or would do.

The CHAIRMAN. What did he do for Senator Stephenson's campaign?

Mr. PERRIN. I do not know.

The CHAIRMAN. You say you knew what he could do?

Mr. PERRIN. I knew what he could do; certainly.

The CHAIRMAN. Was that to be taken as a criterion of what he did do?

Mr. PERRIN. It was by me.

The CHAIRMAN. What did he do?

Mr. PERRIN. Taking that as a criterion, he could, and I believe he did, get men interested for Senator Stephenson that neither Senator Stephenson, Mr. Edmonds, nor I could otherwise get.

The CHAIRMAN. Get men that you could not get?

Mr. PERRIN. Yes.

The CHAIRMAN. How would he get them interested? What would he do?

Mr. PERRIN. I think he would mostly talk.

The CHAIRMAN. What would he say to them?

Mr. PERRIN. I am sure I do not know.

The CHAIRMAN. What would be the nature of the conversation?

Mr. PERRIN. I would not undertake to say.

The CHAIRMAN. How do you know it is not just exactly the conversation you or Mr. Edmonds would have had with these people?

Mr. PERRIN. Because I know that I could not talk to some of those people the way Mr. Shields could.

The CHAIRMAN. If you do not know what he said to them, how do you know that?

Mr. PERRIN. There are things, you know, that we know without being able to explain or express after long years of acquaintance with a man that no man living can sit on the witness stand and detail.

The CHAIRMAN. Do you think you are worth the \$3,000 that Mr. Stephenson gave you?

Mr. PERRIN. Oh, I know I am worth that.

The CHAIRMAN. It takes a pretty good political talker to get that amount of money.

Mr. PERRIN. I did not have to talk any to get it.

The CHAIRMAN. How much of this money indicated by the cash items or the checks remained in your hands?

Mr. PERRIN. Not a cent.

The CHAIRMAN. And yet you can not account for a cent of it that you paid out?

Mr. PERRIN. I can not in detail; no, sir.

The CHAIRMAN. Not a single item?

Mr. PERRIN. Not one.

The CHAIRMAN. That was rather a spectacular campaign in some respects, was it not, with money flowing out freely in those amounts?

Mr. PERRIN. To speak in the vernacular, I guess we got them "going some."

Senator SUTHERLAND. In handing over sums of money to people that you employed in Senator Stephenson's interest, did you give any of them any instruction whatever as to what they should do?

Mr. PERRIN. If I thought it was necessary when I gave the man money to tell him what to do, I have no doubt I did.

Senator SUTHERLAND. Did you?

Mr. PERRIN. I do not remember.

Senator SUTHERLAND. You do not recall having given anybody any instructions?

Mr. PERRIN. No; I do not recall it. I know there were some instances where I said to some man, or some men, that we would look to him or them to provide workers at the polls, for instance, or teams to get voters out. But that was all in the most general way.

Senator SUTHERLAND. You gave them no specific instructions that you recall as to what they should do?

Mr. PERRIN. I do not recall now; no. I do not recall now that I did.

The CHAIRMAN. On August 5, \$200 cash. For what was that cash expended, and by whom?

Mr. PERRIN. I have no recollection.

The CHAIRMAN. August 6, \$25 cash. What do you say as to that?

Mr. PERRIN. I have no recollection.

The CHAIRMAN. August 6, \$200. What have you to say as to that item?

Mr. PERRIN. I do not remember it.

The CHAIRMAN. When you say you do not remember, you mean——

Mr. PERRIN. I have no recollection.

The CHAIRMAN. That you have no information to give in regard to it, based upon your recollection?

Mr. PERRIN. None whatever.

The CHAIRMAN. On August 7, \$100 cash. Have you any recollection as to the purpose for which that was expended?

Mr. PERRIN. No, sir.

The CHAIRMAN. And on August 7, again, \$75; and on August 7, again, \$50; that is \$225 on August 7. Have you any knowledge as to what that was used for?

Mr. PERRIN. Those items are all "cash"?

The CHAIRMAN. Yes; they are all cash.

Mr. PERRIN. No; I have no recollection.

The CHAIRMAN. On the 8th we have cash items of \$50, \$50, \$50, \$50, and \$50—\$250; do you know the purpose for which that money, or any part of it, was expended?

Mr. PERRIN. Those are cash?

The CHAIRMAN. Yes; cash items.

Mr. PERRIN. No; I have no recollection.

Senator POMERENE. You have said in answer to Senator Sutherland—I want to quote you correctly, and if I do not you will correct me—that you probably paid money to 100 different persons, though you were not definite as to your statement.

Mr. PERRIN. No; I can not be.

Senator POMERENE. I understand that. You also said to him again in your examination that you knew personally very many of the men that you employed.

Mr. PERRIN. Yes.

Senator POMERENE. Do you mean to tell the committee that you do not now remember any of the men to whom you paid this money, outside of the few names that you gave to Senator Heyburn?

Mr. PERRIN. That is just exactly what I mean to say.

Senator POMERENE. Not one of them?

Mr. PERRIN. Not one of them.

MR. PERRIN'S METHODS OF DISTRIBUTING \$5,000.

(689) Mr. PERRIN. I planned that we would take the first \$1,000 and get hold of as many of the men who were accustomed to doing political work in that territory as we could get hold of with that money, laying the foundation for further and more extensive electioneering if the money was forthcoming.

* * * At that time, I think, I knew I would get another \$1,000.

"The CHAIRMAN. With this class of expenditure the motive does cut some figure. You were representing a candidate for office, under the laws of a State, and you were not spending your money, but his. Did it not occur to you that he would be responsible for the manner of your expenditure, and that incidentally to that you would have some responsibility?"

Mr. PERRIN. No.

The CHAIRMAN. It did not?

Mr. PERRIN. No.

The CHAIRMAN. You did not feel that you were under any responsibility to any person or any law for the manner of the expenditure of this money?

Mr. PERRIN. I do not think I said that.

The CHAIRMAN. I asked you. It is a question I am asking you.

Mr. PERRIN. Just read the question, please.

The reporter read as follows:

"The CHAIRMAN. You did not feel that you were under any responsibility to any person or any law for the manner of the expenditure of this money?"

Mr. PERRIN. I felt that I was responsible to Senator Stephenson for the expenditure of the money that he put in my hands.

The CHAIRMAN. Do you mean the manner of the expenditure?

Mr. PERRIN. No; I do not think so, entirely. I think I was selected to exercise an independent judgment upon the manner in which his candidacy should be furthered in that particular.

The CHAIRMAN. And leave the responsibility upon Senator Stephenson?

Mr. PERRIN. May I inquire—responsibility for what?

The CHAIRMAN. The manner in which you expended it; were you going to let him take chances on that?

Mr. PERRIN. I do not think the Senator was taking any chances on that.

The CHAIRMAN. To return to Mr. Shields: You have not been able to account for any item of expenditure by Mr. Shields; so that we shall have to rely upon Mr. Shields, shall we, for that information?

Mr. PERRIN. I presume he can give you some idea as to what he did with that money. I should like to say, if I may, that of these cash items I think Mr. Fridley had more than appears to have been given him upon checks drawn to his order.

Mr. PERRIN. This statute has never received in practical operation, by anybody that I know of in the State of Wisconsin, the construction which has been suggested here. It is the common, ordinary thing throughout northern Wisconsin to take a man to the theater or take him to lunch, not necessarily to corrupt his mind, but to enlighten him. You do these things to get a man's mind in a receptive mood. You can not go after him, Senator, you know, with an ax and beat an idea into him. It has got to be worked out along practical lines. It seems foolish for me to sit here and talk to you gentlemen about this thing, because you know so much more about it than I do.

The CHAIRMAN. Our examination here is not so much for our entertainment as to make a record.

Mr. PERRIN. I beg your pardon. I apologize.

The CHAIRMAN. You need make no apology. This is to be taken as a test of your meaning of "electioneering" then, is it?

Mr. PERRIN. I think that is a fair test of the meaning of ninety-nine men out of a hundred who conduct politics.

The CHAIRMAN. Of "electioneering"?

Mr. PERRIN. "Electioneering."

The CHAIRMAN. You think that comes within the definition of "electioneering"?

Mr. PERRIN. I certainly do.

The CHAIRMAN. And when you speak of having expended money in electioneering, either by you or by those whom you employed, you include that kind of proceeding under the head "electioneering"?

Mr. PERRIN. It may be included.

Senator SUTHERLAND. You think it is as legitimate to reach a man through his appetite as it is through his intellect?

KNOWINGLY PAID MONEY TO SHAUERS.

The CHAIRMAN. You said, or I understood you to say, that there was only one case in which you knowingly paid money to a man who was a candidate for the legislature; what case was that?

Mr. EDMONDS. Mr. Shauers, of Oconto County.

Mr. LITTLEFIELD. Was he elected?

Mr. EDMONDS. No, sir.

Mr. LITTLEFIELD. What was his name?

Mr. EDMONDS. Mr. Shauers.

The CHAIRMAN. For what purpose did you pay him money?

Mr. EDMONDS. He was a railroad man, and for the purpose of organizing he went in different parts of the State to see railroad men.

The CHAIRMAN. Was he in employment then or out of employment?

Mr. EDMONDS. Out of employment.

The CHAIRMAN. Then he went from his home to different parts of the State, outside of the legislative district where he was a candidate?

Mr. EDMONDS. Yes. It was distinctly understood that he was to spend no time, no money, in that district.

The CHAIRMAN. Well, but did he?

Mr. EDMONDS. He did not, to my knowledge.

Mr. LITTLEFIELD. That is, in his own district?

Mr. EDMONDS. In his own district.

Mr. LITTLEFIELD. So that nothing that was expended by him had any relation to the campaign pending in his district?

Mr. EDMONDS. Absolutely not.

Mr. LITTLEFIELD. Either directly or indirectly?

The CHAIRMAN. How much did you pay Shauers?

Mr. EDMONDS. I don't recall. I should think it might range from \$50 to \$100 or \$125. I don't think more than that. I paid him, I think, two or three different times \$25.

THOMAS REYNOLDS.

The CHAIRMAN. Did you receive any more than \$180 from Senator Stephenson, or from anyone in his behalf?

Mr. REYNOLDS. I received \$100 from Senator Stephenson's manager.

The CHAIRMAN. Is that the \$100 that you have referred to? Did you receive \$280 altogether from Senator Stephenson or his manager?

Mr. REYNOLDS. I did not consider it from Senator Stephenson, although Senator Stephenson told me afterwards that he told them to send it to me—I supposed for my services; I do not know for what.

The CHAIRMAN. Did you receive \$280 altogether from Senator Stephenson?

Mr. REYNOLDS. Yes, sir.

The CHAIRMAN. You received \$80 from Senator Stephenson personally, did you not?

Mr. REYNOLDS. Yes.

The CHAIRMAN. Then you received \$100 from Senator Stephenson personally?

Mr. REYNOLDS. No, sir; not personally.

The CHAIRMAN. From whom did you receive it?

Mr. REYNOLDS. I received it through the mail.

The CHAIRMAN. Did you receive the second \$100 through the mail?

Mr. REYNOLDS. The second \$100; yes, sir; that is the only \$100 I received through the mail, the second \$100—no; the first \$100. The first \$100.

The CHAIRMAN. Did you receive another \$100 after that?

Mr. REYNOLDS. I received \$100 by check from his manager.

The CHAIRMAN. Did you receive \$100 by check from Senator Stephenson?

Mr. REYNOLDS. No, sir.

The CHAIRMAN. Did you receive more than one sum of \$100 from the manager?

Mr. REYNOLDS. That is all I received from the manager—\$100; a \$100 check.

The CHAIRMAN. Tell us how you received the \$280.

Mr. REYNOLDS. I received \$80 from Senator Stephenson and \$100 afterwards from him.

The CHAIRMAN. From Senator Stephenson?

Mr. REYNOLDS. Yes.

The CHAIRMAN. Personally?

Mr. REYNOLDS. Not personally; no.

The CHAIRMAN. How did you receive it?

Mr. REYNOLDS. Through the mail.

* * * * *

The CHAIRMAN. To whom did you pay the largest sum of money?

Mr. RIORDAN. In all?

The CHAIRMAN. Yes.

Mr. RIORDAN. During the campaign?

The CHAIRMAN. Yes; out of this fund.

Mr. RIORDAN. For any purpose?

The CHAIRMAN. Yes.

Mr. RIORDAN. \$250 to E. A. Everett, of Eagle River.

The CHAIRMAN. For what did you pay him that sum?

Mr. RIORDAN. For traveling through the counties of Vilas, Iron, and Oneida and ascertaining, as far as he was able, the sentiment of the people as he went along; that is, those who were for and against each of the several candidates.

The CHAIRMAN. Did he report to you a memorandum of people, showing the result of that work?

Mr. RIORDAN. He made two such trips through the county. After the first one he came back and made a report to me, and the second time he came back and made a similar report.

The CHAIRMAN. Tell us who he was.

Mr. RIORDAN. E. A. Everett is the proprietor of the Everett resort.

The CHAIRMAN. What is that?

Mr. RIORDAN. That consists of a large hotel dining room and about 40 cottages on the Eagle chain of lakes, at Eagle River.

The CHAIRMAN. It is a summer resort?

Mr. RIORDAN. It is a summer resort. Prior to that time he was a member of the Wisconsin Assembly.

The CHAIRMAN. But at the time you made this arrangement with him he was not a public officer?

Mr. RIORDAN. He was a candidate for public office.

The CHAIRMAN. What office?

Mr. RIORDAN. The office of member of the assembly.

The CHAIRMAN. At the time you paid him this money?

Mr. RIORDAN. I did not pay him the money, I see by my testimony, until the 31st of August.

Senator POMERENE. Is that George E. Everett?

Mr. RIORDAN. E. A. Everett.

The CHAIRMAN. The testimony would indicate that you paid it to him before the primary election.

Mr. RIORDAN. I think a day or two before the primary election.

Mr. LITTLEFIELD. He was a candidate for the assembly?

Mr. RIORDAN. Yes.

The CHAIRMAN. Was he elected?

Mr. RIORDAN. No, sir.

The CHAIRMAN. When you paid it to him, did you know that he was a candidate for the assembly?

Mr. RIORDAN. I think I did, certainly. I surely talked with him about it.

The CHAIRMAN. Was he announcing for whom he would vote in the legislature if he were elected?

Mr. RIORDAN. Yes; he was to vote for the candidate who received the primary nomination.

The CHAIRMAN. Without regard to who it was?

Mr. RIORDAN. Yes; and I would like to add there that the man who was running against him made the same promise.

Mr. LITTLEFIELD. What was his name?

Mr. RIORDAN. D. B. Stevens.

The CHAIRMAN. They promised to abide the result of the primary?

Mr. RIORDAN. Yes. The campaign was made with that understanding.

The CHAIRMAN. For whom did they assert their influence during the primary, the time preceding the election?

Mr. RIORDAN. I think for themselves, individually.

The CHAIRMAN. Were they announcing their support of any particular candidate, or doing anything in the interest of any particular candidate?

Mr. RIORDAN. No: I do not think they were.

BANCROFT'S METHODS.

The CHAIRMAN (reading):

"The result of our conference was that I, being pretty well acquainted with the county, and knowing who the political workers were in the county, consented to disburse this amount of money for Mr. Stephenson."

Is that correct?

Mr. BANCROFT. That is correct.

The CHAIRMAN. Give us the names of the people and the amounts you gave them.

Mr. BANCROFT. George Melhaffy I paid \$100.

The CHAIRMAN. What was he to do for that \$100?

Mr. BANCROFT. I gave him no instructions whatever.

Senator POMERENE. What is his address?

Mr. BANCROFT. Richland Center.

The CHAIRMAN. What did he do with the money?

Mr. BANCROFT. I could not tell you.

The CHAIRMAN. Did you ask him to render you an account of the manner of its expenditure?

Mr. BANCROFT. I did not.

The CHAIRMAN. Did he ever tell you how he expended the money?

Mr. BANCROFT. He did not.

The CHAIRMAN. Then you never knew?

Mr. BANCROFT. I do not know.

The CHAIRMAN. Did you ever know?

Mr. BANCROFT. I never knew.

MONEY PAID TO MULDER, CANDIDATE FOR THE LEGISLATURE.

Mr. LITTLEFIELD. Then you said, "and he got some of this money"; so I get the impression that you referred to McConnell.

Senator POMERENE. You understood that I was referring to Mulder?

Mr. GORDON. Yes.

Mr. LITTLEFIELD. That is all right, then.

Senator POMERENE. Yes; that is all right, so there will be no misunderstanding. Was it as much as \$50?

Mr. GORDON. I can not tell you how much it was.

Senator POMERENE. You can certainly give us some idea as to whether it was a matter of \$5 or \$10 or \$50 or \$100.

Mr. GORDON. I can not tell you definitely how much it was.

Senator POMERENE. I know; but I am not asking you for that. I am asking you for your best judgment about it.

Mr. GORDON. It was probably, I should guess, from \$25 to \$50.

Senator POMERENE. What did you say to him with reference to his campaign and what use was to be made of this money?

Mr. GORDON. He was one of the original Stephenson men in the county, and I asked him to do what he could in the interest of Mr. Stephenson.

Senator POMERENE. What else was said?

Mr. GORDON. That is all I can recollect. I do not recollect all that was said. That is what I naturally would say.

Senator POMERENE. Since your attention has been directed to this matter, do you not recall that Mulder was a candidate for the general assembly?

Mr. GORDON. I say he was a candidate, but I can not recollect whether he was when I gave him the money or whether he subsequently became a candidate.

Senator POMERENE. I misunderstood you, then.

Mr. GORDON. He was a candidate; yes.

Senator POMERENE. We understand each other now—that he was in fact a candidate?

Mr. GORDON. He was a candidate; yes, sir.

Senator POMERENE. But you meant to say that you do not remember whether at the time you gave him the money he was then an announced candidate or not?

Mr. GORDON. That is the idea.

WHEELER'S METHODS OF DISTRIBUTION.

William G. Wheeler distributed \$600 and aided in the "organization." Mr. C. B. Salmons was one of his lieutenants. Mr. Salmons reported the success of his operations in the following letter to his chief (p. 897):

BELOIT, WIS., September 1.

MY DEAR WHEELER: I inclose bills in blank which are correct. *All the men and rigs were in the exclusive use of Stephenson.* We did not mix any other candidates. We also had about as many more that were Stephenson and one or two other candidates. At this writing, 4 p. m., I predict 1,700 to 1,800 votes, and that Stephenson will get 65 per cent.

Very truly,
We should pay these men in the morning.

C. B. SALMON.

(Our italics.)

MR. DART'S METHODS IN DISTRIBUTING MONEY.

Dart was one of the deputy game wardens, and received \$400 for "organization purposes."

The chairman read to the witness an extract from his testimony given before the legislative committee as follows:

"Q. What did you do with it?—A. Spent it.

"Q. How?—A. Every old way.

"Q. What is that?—A. Every way.

"Q. Tell us some way that you spent it.—A. Oh, I spent quite a lot of it in saloons."

The CHAIRMAN. Is that true?

Mr. DART. Well, I should not go past any of them if there was anybody there I wanted to see.

The CHAIRMAN (reading from previous testimony) :

"Q. Did you make any payments to individuals?—A. Oh, yes; I gave them quite a little bunch of money.

"Q. Who were the persons to whom you gave 'quite a little bunch of money'?—A. Oh, I don't know; I could not mention half or a quarter of them."

He, however, on pages 977 to 982, gives an interesting account of the expenditures that he remembers.

The testimony of Mr. Wellensgard, on pages 852, 855, and 856; that of Mr. French, at page 876; and that of George Beyer, at page 881, furnish fair illustrations of the methods employed by local workers.

LIQUOR EXPENDITURES.

Senator POMERENE. Or, if he got a drink of whisky at the bar and drank it there, that would not be prohibited; but if he got a half a pint and put it in his pocket and took it away for a swig after a while, that would be illegal?

Mr. SACKET. I think I should have to revert to the custom again and say that the half pint was lawful.

Senator SUTHERLAND. Is it the custom in Wisconsin to buy the voters bottles of whisky and give to them?

Mr. SACKET. And kegs of beer; yes, sir.

Senator SUTHERLAND. And kegs of beer?

Mr. SACKET. Yes, sir.

Mr. LITTLEFIELD. Let me get that question.

Senator POMERENE. Being from Maine, you do not know anything about that.

Mr. LITTLEFIELD. That is why I was quite anxious to get the actual practical situation. I trust we are adding to the sum of human knowledge and at the same time increasing my own information. Of course, I fully realize my infirmity.

Senator SUTHERLAND. Now, Mr. Sacket, do you seriously mean that that is the custom in Wisconsin—

Mr. SACKET. The custom, as I understand it; yes, sir.

Senator SUTHERLAND. To purchase bottles of whisky and kegs of beer for voters?

Mr. SACKET. Yes, sir.

* * * * *

The CHAIRMAN (reading) :

"Q. You kept no track of it. How could you present a bill to Mr. Wayland? Was that just an estimate of what you spent?—A. No. I think there was \$135 cash I had in my pocket, without the automobile, which was \$15. I think it was \$150 I had that day when I left the office."

Is that correct?

Mr. O'CONNOR. Yes, sir.

The CHAIRMAN (reading) :

"Q. And you spent all that in one day?—A. Yes, sir."

* * * * *

(827) Mr. O'CONNOR. No, sir; it was a supper, I guess, that cost about \$1.60 for the two of us.

Senator SUTHERLAND. You spent \$1.60 for food, as I understand you?

Mr. O'CONNOR. Yes, sir.

Senator SUTHERLAND. That would leave \$305.40 for whisky and cigars and automobiles?

Mr. O'CONNOR. Yes, sir.

Senator SUTHERLAND. Do you think you spent a little too much for food?

Mr. O'CONNOR. No; I did not think anything about it.

Senator SUTHERLAND. You do not recall spending any of the money for anything else.

Mr. O'CONNOR. That is all it was spent for.

Senator SUTHERLAND. That is, you spent \$305.40 for an automobile and for whisky and cigars?

Mr. O'CONNOR. Yes, sir.

Senator SUTHERLAND. And that was your notion of furthering the interests of Senator Stephenson in this campaign, was it?

Mr. O'CONNOR. That is the way they make a campaign up in that territory.

Senator SUTHERLAND. That is the way you made it, at all events?

Mr. O'CONNOR. That is customary up there.

MONEY PAID TO "ENTHUSE" VOTERS.

The CHAIRMAN. Mr. Edmonds, did you pay the \$50 to Mr. Dettmam on August 8?

Mr. EDMONDS. My recollection is not clear on that, but I think I sent it to him.

The CHAIRMAN. You think you sent it to him; for what purpose?

Mr. EDMONDS. For assistance among the German Lutherans in his locality.

The CHAIRMAN. What kind of assistance?

Mr. EDMONDS. So that he would get out and help to get out the vote—interest his friends—for Senator Stephenson.

The CHAIRMAN. There was no vote to be gotten out on August 8 for any purpose—nearly a month before the election.

Mr. EDMONDS. When I say getting out the vote, I do not refer to the actual carrying or taking of the persons to the polls, but to interest them so that they would get out.

The CHAIRMAN. Enthuse them?

Mr. EDMONDS. That is the idea—enthuse them. Thank you for the suggestion.

The CHAIRMAN. "O. L. Gust, \$300, August 8." Did you pay that money?

Mr. EDMONDS. I can not recall that payment at all.

* * * * *

The CHAIRMAN. What do you mean by lining them up for Senator Stephenson?

Mr. EDMONDS. Getting them interested in his election.

The CHAIRMAN. Discussing his election with them?

Mr. EDMONDS. Yes, sir.

The CHAIRMAN. Paying any money to them for any purpose?

Mr. EDMONDS. That was up to the man's judgment as to whether that was necessary or advisable in the conduct of the campaign for Senator Stephenson's election.

The CHAIRMAN. Was that money given to him to expend among the railroad men for cigars or treats of any kind if he saw fit to so expend it?

Mr. EDMONDS. So far as I know he might have expended it in that way.

The CHAIRMAN. There was no restriction placed upon it?

Mr. EDMONDS. I think not; not in that manner.

We regret that we can not feel warranted in finding for the sitting Member, but we believe the methods employed at the primary were corrupt; that they were against public policy; that they were demoralizing in character; that they directly contributed to destroy the purity and freedom of the election; that they violated the fundamental principles at the basis of our system of government; and that they are not to be tolerated by the Senate of the United States as a means of procuring a seat in that body.

We desire to submit the following resolution:

Resolved, That Isaac Stephenson was not duly and legally elected to a seat in the Senate of the United States by the Legislature of the State of Wisconsin.

W. L. JONES.

MOSES E. CLAPP.

WM. S. KENYON

JNO. W. KERN

LUKE LEA.



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